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New Directions For Workers' Compensation Reform

Report of The Honourable Cam Jackson
Minister Without Portfolio
Responsible for Workers' Compensation Reform

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Minister Without Portfolio
Responsible for
WCB Reform

777 Bay Street
10th Floor
Toronto ON M5G 2E5
Telephone: (416) 585-6464
Fax: (416) 585-7575

Ministre sans portefeuille
délégué à la Réforme
de la CAT

777 rue Bay
10e étage
Toronto (ON) M5G 2E5
Téléphone : (416) 585-6464
Télécopieur : (416) 585-7575

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June 28, 1996

The Honourable Mike Harris, MPP
Premier of Ontario
Queen's Park
Toronto, Ontario

Dear Premier:

I am pleased to submit my Report on New Directions for Workers' Compensation Reform. The Report presents a set of recommendations based on the comprehensive review of Ontario's workers' compensation system I conducted since my appointment in July of 1995 as Minister Responsible for WCB Reform.

The analysis and recommendations set out in the Report have been profoundly influenced by what I heard during extensive consultations over the past year. I met with over 200 organizations and individuals through a formal consultation process during late winter. In addition, through personal interviews with over 150 individual injured workers, I gained an invaluable insight into the experience of workers caught in the WCB system and into the human consequences of workplace injury.

The Report presents a balanced package of new directions responsive to the needs of both injured workers and employers. Building on commitments in the Common Sense Revolution, the directions preserve fair and secure benefits for injured workers and, at the same time, restore the financial viability of the WCB. I am confident that the new directions will lead to a system that is both compassionate and competitive.

The Minister of Labour will now be in a position to introduce, in the fall of 1996, the legislative amendments needed to realize the government's vision for a reformed workers' compensation system. At the same time, the new management team installed to turn the WCB around will be well placed to successfully implement necessary institutional changes.

In closing, I would like to express my gratitude for the opportunity to tackle this challenging area of reform.

Sincerely yours,

Cam Jackson
Minister

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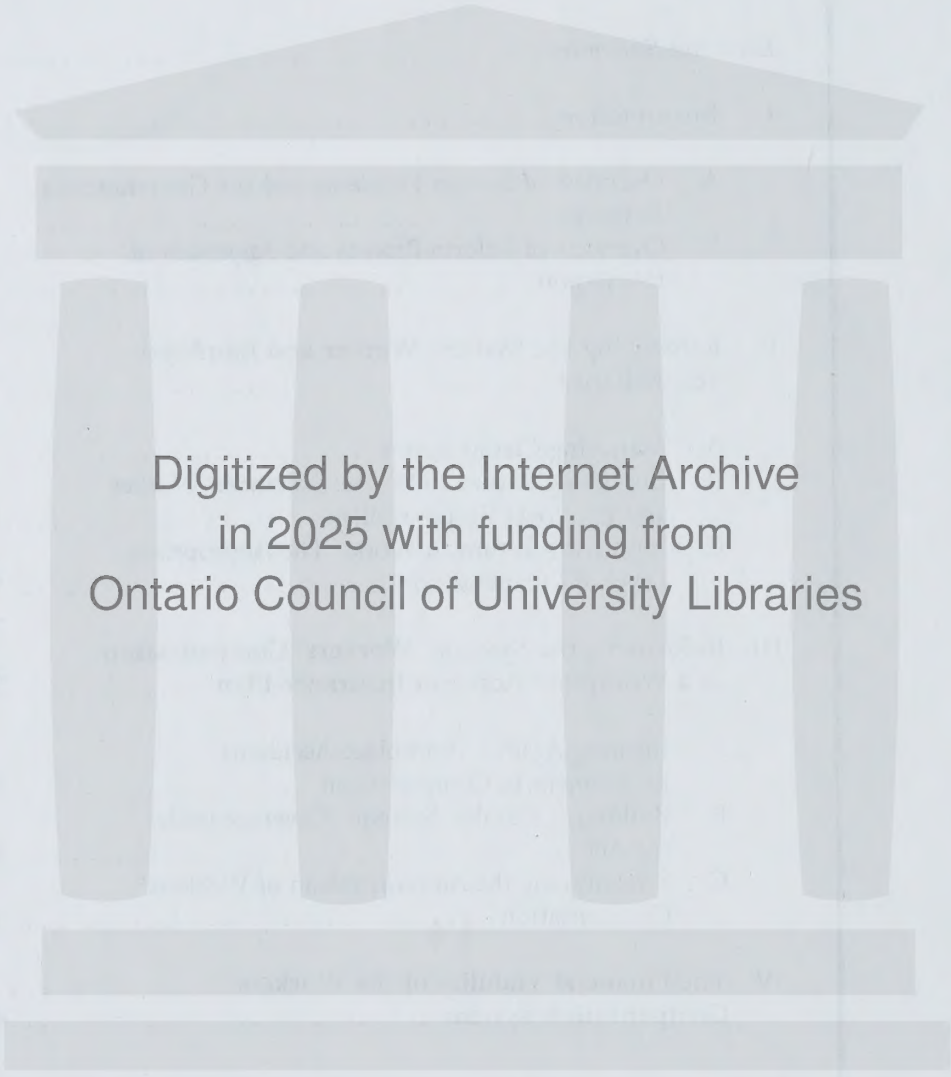

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Executive Summary

This Report represents the findings and directions resulting from the comprehensive review of the workers' compensation system conducted by the Honourable Cam Jackson, Minister Without Portfolio Responsible for Workers' Compensation Reform. The Report delivers a reform package that will fundamentally reshape Ontario's workers' compensation system and the role the workplace parties play within the system. Based on Minister Jackson's findings, these reforms will preserve fair and secure benefits for the injured workers of today and tomorrow by:

- eliminating the unfunded liability by the year 2014 and restoring the financial viability of the Workers' Compensation Board (the WCB);
- streamlining administration and significantly improving service delivery for workers and employers; and,
- refocusing the system to encourage worker and employer self-reliance.

At the same time, these reforms will allow the government to remove significant barriers to job creation and economic competitiveness by keeping its commitment to lower WCB assessment rates.

The Report is divided into three broad sections. Each section provides a brief analysis of problems, summarizes the feedback from the consultation process and recommends new directions for the workers' compensation system.

Refocusing the System: Worker and Employer Self-Reliance

This section of the Report examines new approaches to managing workers' compensation claims and the return to work process, and addresses the issue of the appropriate level of compensation. The new directions have the cumulative

effect of re-orienting the workers' compensation system, based on a model of greater worker and employer self-reliance in dealing with the consequences of workplace injuries.

To improve the claims management process, the Report proposes new responsibilities for workers and employers. Workers will have to apply for compensation benefits, and an approach is outlined to permit employers to directly pay the costs of work-related injuries for a limited period of time.

Measures to improve return to work outcomes include a requirement on employers to prepare a return to work plan for an injured worker. Where the worker cannot return to the pre-accident employer, the WCB will develop, in consultation with the worker, a labour market re-entry strategy, supported by re-employment incentives for new employers. To bolster early return to work, changes are recommended to the benefit level and to the way in which compensation for loss of earnings is calculated.

Refocusing the System: Workers' Compensation as a Workplace Accident Insurance Plan

This section of the Report examines new approaches to entitlement to compensation and to delivering an efficient and effective service to workers and employers. The Report also reviews the need to expand workers' compensation coverage to ensure that the collective liability pool remains solvent.

The new directions will restore the integrity of the workers' compensation system as a workplace accident insurance plan by precluding compensation for chronic occupational stress and limiting entitlement for chronic pain. To ensure the durability of the collective liability system, the Report concludes that the WCB should undertake consultations to determine appropriate extensions of coverage based on sound business and insurance principles.

To improve the operation of the workers' compensation system, a broad array of measures are outlined

to streamline administration. The Report recommends that limitation periods for appeals be adopted, and the WCB be given more flexibility in dealing with appeals. The Report recommends maintaining a streamlined Workers' Compensation Appeals Tribunal with limited authority and subject to WCB policy. Changes are also recommended to the other three agencies funded by the WCB.

The Financial Viability of the Workers' Compensation System

This section of the Report considers the adjustments to the benefit and the revenue sides of the WCB system needed to ensure that full funding of the workers' compensation system is achieved by the year 2014. The *Common Sense Revolution* called for full funding of the accident fund in order to guarantee strong investment and job growth in the provincial economy, and to improve the competitive position of Ontario employers.

To ensure the viability of the system, the Report recognizes that very difficult measures must be taken to reduce the size of the unfunded liability. The Report examines a number of approaches to achieve this objective, based on modifications to the existing inflation indexing provision. It recommends adoption of an approach that would preserve full inflation protection for the most vulnerable benefit recipients.

The Report also recognizes that the continuing viability of the system requires that adjustments must be made on the revenue side as well. The new directions include amendments to the legislation to prevent losses of revenue and measures to ensure that all employers pay their fair share of the costs of running the workers' compensation system.

Summary of Recommendations

Refocusing the System: Worker and Employer Self-Reliance

Managing Claims Better

Amend the Act to require workers to apply for compensation within six months of the date of injury, and empower the WCB to waive the time limitation in appropriate circumstances.

Give the WCB the statutory authority to implement the direct payment model for a period of up to six weeks from the date of injury:

- *Require the WCB to explore direct payment implementation, in consultation with stakeholders, on a sector by sector basis; and,*

- *Require the WCB to report back to the Minister of Labour before January 1, 1998.*

Improving Return to Work: Enhanced Worker and Employer Responsibility

Amend the Act to modify the current over-reliance on vocational rehabilitation and introduce a comprehensive return to work model based on:

- *Employer requirement to develop a Return to Work plan to expedite re-employment with the accident employer;*

- *A Labour Market Re-entry plan to facilitate the re-employment of workers unable to return to the pre-accident employment, with supporting incentives; and*

- *Worker obligation to cooperate with the Return to Work and Labour Market Re-entry plans.*

Improving Return to Work: The Appropriate Level of Compensation

Adjust workers' compensation benefits prospectively to 85 per cent of pre-injury net average earnings.

Reform the dual award system to correct for the incidence of unintended overcompensation.

Refocusing the System: Workers' Compensation as a Workplace Accident Insurance Plan

Insuring Against Workplace Accidents: Entitlement to Compensation

Amend the Act to:

- *Preclude compensation for chronic occupational stress; and,*
- *Compensate chronic pain in accordance with guidelines for usual healing time set out in a regulation.*

Conduct further research into the prevention, management and compensation of multiple cause disabilities.

Building a Durable System: Coverage under the Act

Require the WCB to undertake consultations and a full financial review to determine appropriate extensions of coverage to employers and their workers based on sound insurance and business principles, and to address implementation issues and stakeholder concerns.

The WCB will report back with recommendations to the Minister of Labour by January 1, 1998.

Streamlining the Administration of Workers' Compensation

Adopt a general six month time limitation within which a worker or an employer can object to a WCB decision, except as provided elsewhere in the Act; and require an objector to state grounds for the objection and enable the WCB to decide the objection on the basis of that information without the need for a hearing.

Maintain a streamlined Workers' Compensation Appeals Tribunal with limited authority and subject to WCB policy.

Eliminate the Occupational Disease Panel and integrate its functions into the WCB.

Maintain the Office of the Worker Adviser but downsized and limited to providing advisory and representation services to non-unionized injured workers.

Eliminate the Office of the Employer Adviser, and provide small business advisory services directly through the WCB.

Streamline the dual award system to improve the process for older workers and to reduce complexity of the non-economic loss determination process.

The Financial Viability of the Workers' Compensation System

Adjust inflation indexing so that benefit recipients receive indexing protection at the level of a modified Friedland formula at [½ x CPI] - 1%, with a cap of 4%, but retain full indexing to CPI for workers who are 100 per cent disabled and for survivors.

The WCB will review and report back to the Minister of Labour by July 1, 1997 on:

- *the parameters of a new funding strategy (which incorporates the government's reform initiatives and the 5 per cent assessment rate reduction);*

- *measures to expedite the transition of rate groups to their respective target assessment rates (with necessary consideration being given to groups significantly below target);*

- *measures to modify the assessment rate setting model so that it is more responsive, without sacrificing rate stability; and*

- *measures to improve experience rating, including steps to eliminate any technical or methodological problems that are giving rise to an off-balance;*

The Act should be amended to equip the WCB with the necessary powers with which to collect outstanding assessment debts from employers.

I. Introduction

This Report represents the findings and directions resulting from the comprehensive review of the workers' compensation system conducted by the Honourable Cam Jackson, Minister Without Portfolio Responsible for Workers' Compensation Reform. The Report delivers a reform package that will fundamentally reshape Ontario's workers' compensation system and the role the workplace parties play within the system. Based on Minister Jackson's findings, these reforms will preserve fair and secure benefits for the injured workers of today and tomorrow by:

- eliminating the unfunded liability by the year 2014 and restoring the financial viability of the Workers' Compensation Board (the WCB);
- streamlining administration and significantly improving service delivery for workers and employers; and,
- refocusing the system to encourage worker and employer self-reliance.

At the same time, these reforms will allow the government to remove significant barriers to job creation and economic competitiveness by keeping its commitment to lower WCB assessment rates.

A renewed workers' compensation system is a workplace issue. But it is more than just that. It is also an economic issue. It is a part also of job creation. It is central to investment. It is central to growth and recovery.

THE HONOURABLE MIKE HARRIS, PREMIER OF ONTARIO, ADDRESS TO INTERNATIONAL FORUM ON WORKERS' COMPENSATION, HEALTH AND SAFETY

A. Overview of System Problems and the Government's Response

Problems Facing the System

There are a number of reasons why the government must act decisively to turn the workers' compensation system around. These reasons were documented in the case for intervention set out in Minister Jackson's Discussion Paper *New Directions for Workers' Compensation Reform*, released in January, 1996.

The principal reason is the size of the WCB's unfunded liability (the difference between its assets and liabilities). While this liability declined from $11.4 billion in 1994 to

$10.9 billion for 1995, the fundamental problem remains. Its size threatens the viability of the system and the system's capacity to ensure adequate benefits to workers injured today and in the future. It also hinders job growth and the ability of employers to compete in the global marketplace.

The WCB's assets cover only 40 per cent of its liabilities. By contrast, four jurisdictions are over 100 per cent funded (NWT, Yukon, Saskatchewan and Alberta), while three are over 90 per cent funded (British Columbia, New Brunswick and Manitoba). These and other jurisdictions have recognized the critical importance of secure financing for their workers' compensation systems.

There are additional compelling reasons for redirecting the current system.

Workers' compensation has become increasingly complex, adversarial and costly. In addition, the system has expanded significantly beyond the boundaries of an accident insurance plan designed to compensate workers only for work-related injuries.

Over the last decade, workers' compensation benefits have been steadily enriched to enhance both the income replacement and rehabilitation services provided to injured workers with no improvement in return to work outcomes, and without the necessary cost reductions or assessment rate increases needed to pay for these improvements.

Injured workers and employers face an unresponsive and overly bureaucratic system that fosters an undesirable degree of reliance on the WCB. There is insufficient recognition that the workplace parties themselves are in the best position to make practical decisions about the prevention and management of workplace injuries and diseases.

In addition, the workers' compensation system has proven increasingly unable to respond to the changes that have been occurring in Ontario's economy and in the structure of the workforce.

Today, workers' compensation programs are suffering from problems created by institutional reforms introduced over the past 15 years, including substantial liberalization of benefits, the restructuring of permanent partial compensation, and investment in vocational and physical rehabilitation programs, and significant changes in administrative structure and process.

TERRY THOMASON
PROFESSOR, MCGILL UNIVERSITY,
CHRONIC STRESS: WORKERS' COMPENSATION IN THE 1990S (1995)

Focus on Accident Prevention and Health and Safety

Ontario's workers' compensation and health and safety programs have been administered in a way that does not sufficiently recognize the interdependence of accident compensation and accident prevention. As a result, the workers' compensation system is primarily focused on compensating injuries instead of preventing them in the first place.

The combining of compensation and prevention responsibility under one roof is not unusual in Canada. This is the model used in British Columbia, Yukon and Quebec, and it has been recently adopted in New Brunswick.

REPORT OF THE WORKPLACE HEALTH AND SAFETY REVIEW PANEL TO THE MINISTER OF LABOUR DECEMBER (1995)

Stakeholders, by contrast, have long favoured a system that is focused on injury and disease prevention. That is why this government has moved swiftly to place accident prevention under the umbrella of the WCB. The WCB is currently in the process of integrating the administration of health and safety into its compensation program. The new directions outlined in this Report will provide the WCB with the tools necessary to achieve this transformation and the workplace parties with the incentives to invest in accident prevention and health and safety.

Government's Progress in Implementing Workers' Compensation Reform

In the last election, all three parties campaigned on the need to reform the WCB. In the *Common Sense Revolution* released in May, 1994, Mike Harris put forward a turnaround plan for the WCB. The new government has already met many of its commitments.

Very shortly after coming into office, the government disbanded the high profile, high cost Royal Commission on Workers' Compensation, with a view to incorporating its preliminary work and the results of its consultations into a more focused, time limited review process.

In recognition of the significance and complexity of the problems facing the workers' compensation system, the Premier appointed Minister Jackson as strategic minister with the mandate to conduct a comprehensive, focused review of the system.

On December 14, 1995, the legislature passed Bill 15, the *Workers' Compensation and Occupational Health and Safety Amendment Act, 1995,* which restructured the WCB's bipartite board of directors and introduced critical, immediate measures to reduce fraud and ensure financial accountability in the management of the system.

On January 30, 1996, Minister Jackson released a Discussion Paper, *New Directions for Workers' Compensation Reform*, for consultation purposes.

On March 28, Minister Jackson hosted an international forum on workers' compensation, health and safety.

On May 7, in his first Budget, the Minister of Finance, the Honourable Ernie Eves, confirmed the government commitment to reduce employer average assessment rates by 5 per cent.

On May 15, the government appointed Mr. Michael J. O'Keefe as the new President and Chief Executive Officer of the WCB. Mr. O'Keefe is responsible for restructuring and leading the corporation to ensure the successful implementation of the government's vision for workers' compensation in Ontario.

B. Overview of Reform Process and Approach of this Report

Consultation Process and Results

Following the release of his Discussion Paper, Minister Jackson held focused consultation sessions with all key stakeholders throughout February and March. He also toured many regional centres throughout the province to conduct personal interviews with over 150 individual injured workers. The Minister received over 200 formal submissions in response to his Discussion Paper and regional meetings.

Minister Jackson's consultations and personal meetings with injured workers provided invaluable insight into the problems faced by clients of the workers' compensation

system. The consultations confirmed that most injured workers and employers agree on the pressing need to change and improve the system. However, there is less agreement about exactly how the system should be reshaped.

Generally speaking, the employer community is of the view that the system is financially, administratively and structurally in serious difficulty. However, most employers generally endorse the continuation of a publicly administered workers' compensation system. Employers favour changes that would substantially streamline the system, refocus it on the basis of insurance principles, achieve the objective of full funding on or before the year 2014 and guarantee competitive assessment rates.

Conversely, injured workers and organized labour do not see the system as being in crisis. They view the concern over the unfunded liability as exaggerated and challenge the government's objective to fully fund the system. They do not share employer concerns over high assessment rates and their impact on business competitiveness.

Understandably, injured workers and organized labour want the government to maintain fair compensation and access to rehabilitative services for injured workers. In their personal discussions with Minister Jackson, injured workers openly expressed their frustration with the adjudication and vocational rehabilitation services now provided by the WCB. They urged the government to make the system easier to access and more predictable in its outcomes. This view was also widely shared by many health care providers involved with the workers' compensation system.

It is important to note the areas where the views of injured workers, employers and health care providers converged, and where there is a shared understanding of the problems facing the system and the need for new solutions. There were two such areas, each critical to turning around the workers' compensation system.

First, all stakeholders agreed on the need for the workplace parties, in partnership with the government, to work together to prevent injuries and diseases. Secondly, there was universal

agreement on the urgent need for workers, employers and health care practitioners to cooperate in helping injured workers return to work safely and quickly.

International Forum on Workers' Compensation, Health and Safety

To obtain a global perspective on Ontario's approach to workers' compensation reform, Minister Jackson hosted an International Forum on Workers' Compensation, Health and Safety in March, 1996. This forum brought together workers' compensation experts from around the world to discuss international reform initiatives. Stakeholders were invited to participate in the forum and hear first hand about successful prevention and return to work strategies.

The need for change to the workers' compensation system is not unique to Ontario. If anything, Ontario has been slow to respond with the type of reform required to move the workers' compensation system forward.

THE HONOURABLE MIKE HARRIS, PREMIER OF ONTARIO, ADDRESS TO INTERNATIONAL FORUM ON WORKERS' COMPENSATION, HEALTH AND SAFETY

Participants learned that workers' compensation reform has been occurring around the world and that Ontario is lagging behind international reform trends. They were informed of successful initiatives and best practices adopted in Canada and abroad to address problems identical to Ontario's. Speakers and participants expressed strong support for the analysis and the goals articulated in Minister Jackson's Discussion Paper.

Approach taken in this Report

The Report is divided into three broad sections. Each section begins with a restatement of a fundamental principle of reform, provides a brief analysis of problems, summarizes the feedback from the consultation process and recommends new directions for the workers' compensation system. The directions flow from principles set out in Minister Jackson's Discussion Paper:

- Prevention first, return to work if possible, rehabilitation when needed and compensation as required.
- Workers' compensation should insure workers only against injuries caused by work.
- Workers' compensation should be administered to serve workers and employers efficiently and effectively.

- The system should maintain a fair and affordable level of compensation for all benefit recipients today and in the future.

- The system should include incentives that encourage timely return to suitable work; and no worker should receive more on compensation than the worker would from working.

- All employers benefiting from a collective liability system should pay their fair share of its costs.

The new directions for workers' compensation reform are founded on the recognition that injured workers want to be treated fairly and with dignity. More than anything else, injured workers want to return to their pre-injury jobs and get on with their lives. They want to use their productive skills and experience to contribute to the growth and prosperity of society once again. The system can help achieve these goals by providing workers and employers with the tools and incentives they need to prevent accidents from happening in the first place and to minimize the consequences of accidents when they do happen.

Refocusing the system on accident prevention and early return to work will ensure that the vast majority of workers will never need to resort to what many injured workers now perceive as an incomprehensible and intimidating bureaucracy. For those who are injured, enhancing worker and employer self-reliance and clarifying entitlement will help assure prompt adjudication and payment of benefits. Other measures to streamline the system will help clear the path, reduce delays and improve access to services for injured workers and employers.

Reforms to the structure of benefits will ensure that injured workers are fairly protected against short and long term financial losses, and that the system can guarantee these benefits well into the future. At the same time, the reforms will ensure that all employers pay their share of the collective liability and that their assessments more accurately reflect the cost of workplace accidents.

A workplace centred system of prevention, and return to work, supported by strong financial incentives for employers to minimize injury and provide injured workers with re-employment opportunities and for workers to rehabilitate and return to suitable employment...is a key success factor in system design.

ANDREW LINDBERG, CEO, VICTORIA WORKCOVER REHABILITATION AND COMPENSATION CORPORATION, ADDRESS TO INTERNATIONAL FORUM ON WORKERS' COMPENSATION, HEALTH & SAFETY

The goal of reform is an accident insurance plan that delivers benefits which continue to be among the most generous in North America but at a cost which is among the most competitive on the continent. Such a plan will support and contribute to the government's overall plans for fuelling economic growth, investment and job creation for the province.

Under the new directions, the reformed accident insurance plan will be administered by a revitalized public agency that integrates private sector expertise and best practices into its decision-making structure. The reforms and the corporate restructuring led by the new CEO will result in a streamlined and efficient WCB that is better positioned to carry out its new mandate. In addition to administering claims for long-term disability, the WCB's core business will include accident prevention, facilitating disability management by the workplace parties and coordinating and regulating the activities of external service providers.

Taken together, the new directions set out in this Report will create a financially sound workers' compensation system that is accountable, responsive to the needs of injured workers, and sensitive to the bottom line concerns of large and small employers across Ontario.

This is the *new vision* for workers' compensation for Ontarians.

II. Refocusing the System: Worker and Employer Self-Reliance

This section of the Report addresses aspects of the workers' compensation system that have drawn a great deal of criticism over the years: the claims management process and the WCB's approach to returning injured workers to work. The new directions have the cumulative effect of re-orienting the workers' compensation system, based on a model of greater worker and employer self-reliance in dealing with the consequences of workplace injuries.

A. Managing Claims Better

Principle

To improve efficiency and effectiveness, Ontario's workers' compensation system should foster worker and employer self-reliance by giving the workplace parties greater responsibility over the claims process.

Problem

The current system encourages dependency on the WCB and demands little of the workplace parties in the post-injury process. To set the process in motion, a workplace accident must be reported by the worker to the employer and by the employer to the WCB. Once the process is in motion, return to work and rehabilitation initiatives are generally driven not by the parties but by the WCB. The relative passivity of the workplace parties and corresponding over-reliance on the system are not compatible with the objectives of accident prevention and early return to work.

Not only does the system fail to encourage the workplace parties to assume greater responsibility for an injury, in too many cases it encourages the worker to focus on establishing and maintaining a claim rather than recovering and returning to employment. At the same time, the system encourages the employer to focus on avoiding or transferring costs instead of getting the worker back to work quickly. The consequence of this behaviour is that too many workers stay in the system for too long, to their and society's detriment. As a result, system

costs escalate since the bulk of costs are attributable to long duration claims.

Consultations

The issue of claims administration and a Discussion Paper proposal to enable employers to pay short-term claims directly attracted a wide range of comment from injured workers, employers and health care providers. Some representatives from the employer and organized labour communities stated that improved accountability and management of the existing system would provide better service for all stakeholders.

Some injured workers and employers, however, feel that more dramatic steps are necessary. Injured workers often criticize the arbitrariness and slowness of WCB decision-making. Improved efficiency and consumer choice are identified by some in the employer community as possible benefits of outsourcing the claims management process. But many employers and injured workers are concerned that, in the words of the Employers' Advocacy Council, private firms "may or may not be more efficient or any more proactive than the present system."

The idea of a direct payment model attracted interest from many stakeholders. The Council of Ontario Construction Associations notes that "this model removes the Board from involvement in the initial stage of the claim and puts the employer and worker in a position that is to both their advantage to settle it as soon as possible."

The Occupational Health Nurses Association notes that some employers now follow the proposed model with respect to insurance claims and that "their attention to safety in the workplace and their personal intervention with the employee has provided for an atmosphere of caring, and contributes to reducing workplace injuries."

Most consultation participants feel that the direct payment model deserves greater exploration and further discussion. Injured workers and the labour community express concerns about the need for safeguards and protections to ensure that employers meet their obligations to

injured workers. Many employer associations support the concept of direct payment, but note that its dispute resolution, administrative, and assessment rate implications require study.

Employer organizations differ in their view of the appropriate duration of the direct payment period, and their proposals range from two to six weeks to an unspecified duration. Some employer associations note that this approach might pose special administrative and cash flow challenges for small firms and support a voluntary direct payment model as an alternative.

Many employers prefer a three day waiting period (with a prohibition against employer top-ups) as an alternative to direct payment. However, this was opposed by injured workers, and especially by fire fighters and police officers on the basis that it is unfair to those workers in hazardous occupations who have no right to refuse unsafe work and are hurt in the line of duty.

New Directions

Careful examination of the experience of jurisdictions that have adopted a direct payment approach indicates that placing real responsibility for managing the claim in the hands of workers and employers has substantial positive effects for them and the system.

1. Requiring workers to apply for compensation benefits

An important first step in enhancing the roles and responsibilities of the workplace parties for purposes of workers' compensation is to require a worker who has suffered a workplace injury to apply for compensation within six months of the injury. The Act currently imposes a six month time limitation for making a claim for benefits. This section does not, however, expressly require a worker to actually apply for benefits, and it also gives the WCB very broad discretion to ignore a failure to meet the limitation.

By requiring the worker to take a positive step in applying for benefits, the change will reinforce the need for the

workplace parties to assume greater responsibility for the compensation process. The WCB would have the power to remedy a failure to apply within the six month period in appropriate circumstances, for example, in cases of long-latency occupational disease.

2. *Permitting workers and employers to assume responsibility for short duration claims*

A critical second step is to give workers and employers direct responsibility for dealing with their own claims for a defined period. Under the direct payment approach, employers would be directly responsible for paying the worker compensation benefits as required by the Act as a result of a lost-time injury for a period of up to six weeks from the date of injury.

A direct payment approach would meet several important objectives. By maintaining the workplace connection during the period of the worker's recovery, it increases the prospects of re-employment, and it will assure uninterrupted payment of benefits. An employer who is required to pay the cost of claims directly will have an added incentive to reduce accidents, invest in health and safety and take measures to encourage early return to suitable work. At the same time, a worker who is required to apply for compensation from the employer directly will have a greater incentive to ensure that only claims for work-related injuries are filed.

There are two main advantages of [direct payment]. First, [it] removes the need to administer small claims, leading to greater administrative efficiency. Second, [it] also acts as an incentive to employers to prevent injuries or illnesses.

WORKERS' COMPENSATION IN AUSTRALIA, INDUSTRY COMMISSION REPORT TO COMMONWEALTH GOVERNMENT OF AUSTRALIA (1994)

One effect of adopting the six week direct payment approach is that, according to WCB estimates, it will lower employer assessment rates on average by a further 4 per cent. Employers would be free to seek private insurance coverage at comparable rates for the direct payment period. This will introduce the benefits of competition into the system, particularly the insurance industry focus on loss prevention and risk management, without unravelling the essential fabric of the system. Whether or not employers re-insure for the direct payment period, the approach gives employers the incentive to do even better than the estimated average rate reduction.

Finally, broad adoption of direct payment for up to six weeks will result in fewer lost time claims, earlier return to work and shorter duration on benefits. This in turn means lower system costs and real bottom line savings to employers.

The general features of a direct payment approach would be as follows:

- The injured worker applies to the employer for compensation benefits to cover lost time from work.

- The employer pays the benefits at the level required by the Act, unless the employer decides, on reasonable grounds, that compensation should not be paid. Any disagreement over compensation is immediately submitted to a WCB-sponsored mediation process; unresolved disputes are determined by the WCB on a fast-track basis.

- Significant sanctions would be put in place to ensure that employers comply with the requirement to pay upon application for compensation.

- Where an employer fails to comply with the direct payment obligation, the WCB would pay the worker directly and recover the amount from the employer.

- Where benefits are paid to the worker in error, the WCB would reimburse the employer and recover the monies from the worker.

- Claims arising from death, occupational disease or extremely serious injuries are handled by the WCB from the outset; claims involving medical treatment only and no lost time from work are dealt with as at present.

- The employer is obligated to pay claims up to the end of the direct payment period and would have the option of purchasing insurance for this period.

- All claims must be filed with the WCB by the employer, as at present.

- Claims that exceed the direct payment period revert to the WCB for further handling.

An issue requiring resolution through consultations with the workplace parties is the role of the health practitioner under this approach. In particular, a smoothly functioning direct payment model requires that workers and employers have appropriate and timely access to relevant medical information. This should be supported by training for health care practitioners that will assist them in meeting the needs of the workplace parties in the workers' compensation setting.

Careful consideration was given during the course of the review to the merits of adopting a three-day waiting period instead of a direct payment approach. There is little question that a three day waiting period would likely result in less reliance on the workers' compensation system. To maximize this beneficial effect, a three-day waiting period would have to be combined with a prohibition on employer top-ups (as was done in New Brunswick).

The waiting period does not provide an employer with an incentive to improve accident prevention since it would relieve the employer of the cost of short-term claims. The direct payment model does provide this incentive by making the employer directly responsible for the costs of these claims. In addition, a three-day waiting period has no significant effect on longer duration claims and therefore has less of an impact on overall system costs.

Implementing direct payment

It is recognized that direct payment would impose a new responsibility on employers. That is consistent with the philosophy underlying direct payment: greater responsibility provides an added incentive to reduce workplace injuries in the first place.

It follows that employers who successfully reduce the incidence of workplace injuries will reduce the obligations associated with the direct payment approach as well as the overall costs of the collective liability system. Moreover, for many employers potentially affected by an extension of

coverage (as considered in part III of this Report), a direct payment approach would entail no change to the way they administer their claims where they already directly cover the costs of accidents (either on their own or through a private insurance carrier).

There are a number of approaches to implementing direct payment. Regardless of which approach is chosen, it seems clear that smaller businesses (those employing fewer than 20 workers) should be exempted from any direct payment requirement, since smaller businesses in many instances may not be in a position to bear the additional responsibilities. Smaller firms would have the option of adopting the direct payment approach if they so choose.

Given the substantial benefits of direct payment for workers, employers and the system, consideration could be given to implementing the approach quickly and comprehensively. An effective date of January 1, 1998 would allow the WCB and its stakeholders time to put in place mechanisms to support a smoothly functioning program. A regulation would be developed to govern the features of the direct payment model, the duration of the direct payment period and the obligations of workers, employers and health care providers.

An alternative approach would be simply to give the WCB the discretionary authority to implement a direct payment approach. The WCB then would consult with its stakeholders on the implications of direct payment and how it could be operationalized. Based on the consultation results, the WCB through its board of directors would determine whether and how direct payment is implemented.

There is a further approach that would assure that direct payment is implemented and in a way that is both timely and fully responsive to the needs of the stakeholder community.

The WCB could be empowered to phase in direct payment on a sector by sector basis. This will permit the WCB, in consultation with sectoral representatives, to proceed gradually, resolving issues as they arise and building on experience. To ensure the process is on track and is

responsive to stakeholder concerns, the WCB would be required to report back to the Minister of Labour periodically and no later than January 1, 1998 on plans for phase-in and on progress to date.

The WCB would be required to set out the features of the general direct payment model in a regulation. As direct payment is phased in across sectors, the WCB would add to the regulation provisions that accommodate the needs of particular sectors. The regulation would ensure that workers and employers know precisely their rights and obligations as the program is phased in.

Statutory change would be needed to implement direct payment regardless of the approach to implementation adopted. Currently, the Act does not permit Schedule 1 employers to individually pay the costs of workplace injuries or to administer their own claims. Nor does the Act permit Schedule 1 employers to obtain insurance coverage elsewhere than through contributions to the accident fund.

Recommendations

Amend the Act to require workers to apply for compensation within six months of the date of injury, and empower the WCB to waive the time limitation in appropriate circumstances.

Give the WCB the statutory authority to implement the direct payment model for a period of up to six weeks from the date of injury:

- *Require the WCB to explore direct payment implementation, in consultation with stakeholders, on a sector by sector basis; and,*

- *Require the WCB to report back to the Minister of Labour before January 1, 1998.*

B. Improving Return to Work: Enhanced Worker and Employer Responsibility

Principle

Early return to suitable employment must be a primary objective of the workers' compensation system.

Problem

The WCB, on the basis of its broad discretion in the area of vocational rehabilitation (VR), has in recent years spent almost one-half billion dollars annually on VR services and VR supplements (the supplements bring the benefits of workers in rehabilitation plans up to 90 per cent of pre-injury net average earnings).

An integral part of workplace-based disability management programs is the emphasis on early intervention and assisting employees to return to work as soon as possible. Research and practical experience have shown that for employees who have incurred a disability: there is only a 50 percent chance they will return to work after a six month absence.

NATIONAL INSTITUTE OF DISABILITY MANAGEMENT AND RESEARCH, *DISABILITY MANAGEMENT IN THE WORKPLACE* (1995)

In addition to the WCB's expenditures, the Act seeks to improve return to work by imposing obligations on employers with more than 20 employees to re-employ injured workers and to accommodate workplaces to their needs. Yet, despite this massive investment and the elaborate statutory framework for return to work, the system's performance in this area remains poor. Some of the key problems can be summarized as follows:

- The focus on VR has resulted in increased costs and increased duration on benefits without noticeable improvements in return to work;
- There has been insufficient co-operative involvement of the injured worker, the accident employer and health care provider in the return to work process;
- The broad availability of VR supplements and services tends to encourage injured workers to use and stay on VR rather than focus on return to work; and,
- Incentives to promote return to work are either inadequate or are being misused.

The evidence is clear that the current model, which emphasizes vocational rehabilitation, has failed to meet the

needs of workers and employers. The long-term effect on too many workers is devastating, and the resulting financial burden imposed on the system and on future generations of workers and employers cannot be sustained.

Consultations

All stakeholders recognize that return to work is crucial to the well-being of injured workers and the financial viability of the system. Yet, as the Ontario Medical Association notes, "the ability of employers, employees, medical and rehabilitation services and the public to manage disability needs to be improved." Employers, injured workers, and health care providers all agree that the workplace parties must make greater efforts to restore injured workers to their pre-accident employment.

Cooperative return to work programs create the classic win-win situation...statistics tell us that the longer an injured worker is off work, the less likely he or she is to return and the more likely they are to live a life of poverty...employers save big money with timely return to work programs.

ONTARIO FEDERATION OF LABOUR

To facilitate flexible, creative return to work initiatives, several employer organizations advocate a "cooperative team approach" involving workers, accident employers, unions, health care professionals and the WCB. This approach would impose new responsibilities on workers and health care providers as well as employers. Employers propose benefit reductions for workers who do not cooperate in return to work programs. It is also suggested that health care professionals should be required to provide relevant information to the workplace parties to help them develop return to work programs.

Many employers support strengthened financial incentives to increase the re-employment of injured workers. They propose improving the existing experience rating programs and retaining the existing program to relieve employers of the costs of second injuries (SIEF). Employers also express support for additional financial incentives, such as accommodation assistance and assessment rebates, especially for smaller employers.

In their meetings with Minister Jackson, injured workers and labour organizations were critical of employers who did not return injured workers to their jobs. For the Ontario Federation of Labour, cooperative return to work programs offer considerable potential for the re-employment of injured

Shift[ing] responsibilities of vocational rehabilitation to the workplace parties...would provide an opportunity for flexibility and creativity of the workplace parties. To facilitate this, a co-operative team approach is required. Workers, accident employers, unions, doctors, and the Workers' Compensation Board must work together.

EMPLOYERS' ADVOCACY COUNCIL

workers and for savings to the workers' compensation system. It recommends the legislation of timely return to work standards, which include joint re-employment committees. Some injured worker and labour organizations also support employer access to information about a worker's functional abilities for purposes of facilitating early return to work.

Similarly, health care organizations stress the essential role that a variety of health care professions can play in facilitating the return to work process with the workplace parties. They emphasize the importance of early intervention by both the employer and WCB in planning the worker's return to work, and support the introduction of new employer incentives for re-employing injured workers.

Consistent with the suggestion that the system should be refocused from vocational rehabilitation to return to work, employers agree that vocational rehabilitation services be more appropriately targeted and tailored to the severity of a worker's disability and impairment. They support the establishment of more realistic time frames and costs for individual programs. While the OFL and other labour organizations support the WCB's existing vocational rehabilitation framework, many individual injured workers expressed frustration with often inappropriate vocational rehabilitation programs imposed by the WCB.

New Directions

There is an alternative to the current vocational rehabilitation focused model that is far more likely to provide the outcomes sought by both workers and employers. The comprehensive return to work model outlined below is founded on the self-reliance of the workplace parties, who should be empowered to act in their own mutual best interests.

There are two elements to the comprehensive return to work model: a "return to work" phase, the objective of which is return to work with the accident employer as early as possible; and a "labour market re-entry phase", the objective which is re-employment with an employer (preferably in the same industry) other than the accident employer.

These elements are supported by a series of statutory obligations on workers and employers as well as by a number of incentives. The model will also require some structural modifications to the current dual award system, and will entail an important shift in the WCB's responsibilities.

Return to Work Phase

The "return to work" phase describes the period immediately after an injury that results in lost time of more than five days. Where a worker has not returned to work within five days of the injury, the employer is required to develop, in consultation with the injured worker and the treating health practitioner, a Return to Work (RTW) plan. The plan must be filed with the WCB within 20 days of the injury. A penalty would be levied on employers for not complying with these obligations.

Prompt return to work requires support throughout the system on the part of providers, payers, and employers - but it centres on the workplace... The optimal promotion of prompt return to work requires the timely availability of appropriately modified work for the worker for flexible periods of time...

INSTITUTE FOR WORK AND HEALTH, *DISABILITY DUE TO OCCUPATIONAL LOW BACK PAIN* (1995)

The plan is essentially an early intervention strategy designed to get the worker back to work as quickly as possible consistent with the worker's functional abilities. To this end, the plan could include measures such as graduated return to work with concurrent medical treatment or work hardening to improve employability (as is currently done in Alberta). Where the worker fails to cooperate in the RTW plan, the compensation benefits could be either suspended or terminated.

A key participant in the early return to work strategy is the worker's chosen health care practitioner, who typically is the family physician or chiropractor. (The Act should be modernized to reflect the changed nature of the health care profession.) In addition to providing primary care and coordinating health care services, the practitioner would be required to provide information on the worker's functional abilities to the employer. This limited information is to be provided to the employer solely for the purpose of preparing the RTW plan, and is a condition of the worker receiving benefits. A copy of this information would also be provided to the worker.

The primary duties of the WCB include: resolving issues regarding fitness to return to work and other disputes;

Any new return to work model...must recognize the therapeutic importance of the patient being as active as possible, as early as possible, in the course of the illness/injury. Physicians are thus encouraged to help patients focus on their capabilities, rather than disabilities, and to keep active.

ONTARIO MEDICAL ASSOCIATION, *TIMELY RETURN TO WORK PROGRAMS AND THE ROLE OF PRIMARY CARE PHYSICIAN* (1994)

monitoring compliance with RTW plans; providing tools and assistance in the preparation and implementation of plans; and developing a regulation that sets out the content of RTW plans. To ensure that employers choosing to retain the assistance of outside consultants receive value for money, the WCB will regulate and set standards for RTW service providers and monitor their performance.

Labour Market Re-entry Phase

Where it is clear that the worker is either unable to return to work with the accident employer because of the injury or the employer has not offered a RTW plan, the WCB will conduct a Labour Market Re-entry assessment of the worker. The assessment evaluates the functional abilities, skills, and education of the worker, and provides the basis for a Labour Market Re-entry (LMR) plan.

The WCB and the injured worker (and where appropriate, the employer or the health care provider) then design a LMR plan that mitigates the effects of the injury on the worker. The worker is entitled to one LMR plan with a fixed duration and cost.

Based on the LMR assessment, workers will be provided with either a short-term job search or skills upgrading program or a longer-term re-training program.

The emphasis should be on equipping the worker with essential job search techniques and making use of the worker's existing, transferable skills. Enhancing existing skills is likely to be a more effective way of re-integrating the worker into the labour market than attempting to equip a worker with a completely new set of skills. Where it is unlikely that a short-term program will restore employability but the prospects are good that re-training will make the worker employable, the worker will be offered a longer-term training program.

The objective here is not only to provide injured workers with the support they need to secure employment, but also to provide assurance that the resources invested in re-training will result in re-employment and consequently in a lower long-term cost to the system.

Workers in the LMR phase would receive temporary compensation benefits for the period of their participation in the program. Workers would be expected to make best efforts in completing the program and returning to work. If after the completion of the LMR plan, the worker continues to experience a loss of earnings because of the injury, the worker would be eligible for FEL benefits. The extent to which the worker makes continuing reasonable efforts to return to work or mitigate the loss of earning capacity is a factor the WCB should take into account on reviewing the FEL award two and five years after the initial decision.

Where a worker has suffered a permanent impairment as a result of the injury, any decision to award loss of earnings compensation as a result of that impairment will be made after the worker has achieved maximum medical recovery and after completion of the LMR plan. This will ensure that workers will have had the benefit of all interventions before the FEL award is calculated.

Strengthening Re-employment Incentives

An essential complement to the return to work model is the availability of financial incentives for employers that will enhance the prospect of re-employment with the accident employer or encourage new employers to hire disabled workers other than their own. The incentives that the WCB could provide would include the following:

- Rebate or reduction of assessments paid for hiring a disabled worker;
- Accommodation assistance to help employers finance the costs of modifying the workplace for an injured worker;
- Cost relief in the event that a disabled worker hired by the employer suffers a re-injury; and,
- Re-employment subsidies based on the severity of the worker's injury.

...our compensation system needs to do a better job, through the use of appropriate incentives and disincentives, of fostering those workplace processes that provide flexible work duties for injured workers.

INSTITUTE FOR WORK AND HEALTH, *DISABILITY DUE TO OCCUPATIONAL LOW BACK PAIN* (1995)

Recommendations

Amend the Act to modify the current over-reliance on vocational rehabilitation and introduce a comprehensive return to work model based on:

- *Employer requirement to develop a Return to Work plan to expedite re-employment with the accident employer;*
- *A Labour Market Re-entry plan to facilitate the re-employment of workers unable to return to the pre-accident employment, with supporting incentives; and*
- *Worker obligation to cooperate with the Return to Work and Labour Market Re-entry plans.*

C. *Improving Return to Work: The Appropriate Level of Compensation*

Principle

No worker should receive more on compensation than the worker would from working.

Problem

The workers' compensation system in some respects provides benefits at a level that is inconsistent with the objectives of early return to work or at a level that is higher than was intended.

A good example is the 90 per cent of net average earnings replacement rate. Because workers' compensation benefits are not taxable and the income tax system is progressive, a worker on WCB benefits for up to 39 weeks can, at the end of the year, receive net income that exceeds the worker's net pre-injury income.

There are additional examples of unintended overcompensation in the Act:

- Due to the rigid timing requirements in the Act governing

This Act should be considered for what it is and was originally intended to be, namely a scheme by which compensation is provided in respect of injuries to workers in industry... It is not unemployment insurance. It is not social legislation for the purpose of elevating the standard of one group in society at the expense of another.

JUSTICE ROACH
ONTARIO ROYAL COMMISSION ON THE *WORKMEN'S COMPENSATION ACT* (1950)

the initial decision for loss of earnings compensation (FEL), some workers are receiving a FEL benefit even though they do not receive a permanent impairment award for non-economic loss (NEL).

- Because the Act currently requires the FEL benefit to be based on the worker's hourly or daily rate of pay, there is no recognition that a worker may have been employed on a seasonal or intermittent basis prior to the injury; as a result, workers are being paid compensation that does not reflect the earnings pattern of their pre-injury employment.

- Some workers who are awarded a FEL benefit return to work and continue to receive the benefit even though they experience no loss of earnings.

Consultations

Benefit levels and overcompensation are sensitive issues for both injured workers and employers.

Most injured workers disagree that there is overcompensation and prefer the status quo regarding the level of benefits and the structure of the dual award system. A lower benefit level or a retrospective benefit reduction were perceived as an unfair cost savings on the backs of injured workers, not as a real return to work incentive.

Labour and injured worker groups also oppose measures that would result in the increased integration of WCB with CPP, employer top-ups and other benefits. The Canadian Auto Workers did not favour benefits integration on the ground that it means worker co-payment for workers' compensation through CPP payments, negotiated benefits, and private insurance plans, all of which are taxable.

The employer community supports reforms to ensure that a worker receiving compensation does not earn more than the worker would from working. Employers support proposals to reduce overcompensation by adjusting the level of benefits and by precluding the payment of a FEL benefit where no NEL benefit is granted.

Employers are divided between supporting a retrospective benefit reduction to 85 per cent and a staggered benefit structure of 80 per cent for the first 39 weeks to 85 per cent thereafter. They also advocate amendments to allow for annual reviews of FEL awards and to base a FEL award on annual earnings. As COCA noted, "many workers including most in the construction industry work seasonal or irregular periods, but the FEL overcompensates by assuming the pay period reflects income until age 65."

Employers also support an adjustment to the retirement income loss award so that it more fairly reflects the pension experience of non-injured workers.

Some health care organizations, such as the Ontario Society of Occupational Therapists, agree that an 85 percent benefit level would reinforce an injured worker's timely return to the job.

Benefit levels which are set too low result in legitimately injured workers not reporting claims or returning to work too early, thereby increasing the probability of further, potentially more serious, injury to the worker... benefit levels that are too high discourage work effort at a cost of lost production to all of society. A goal of workers' compensation policy is to achieve "optimal" benefit levels which balance these concerns.

DOUGLAS HYATT
PROFESSOR,
UNIVERSITY OF
TORONTO,
UNFOLDING CHANGE: WORKERS' COMPENSATION IN CANADA (1995)

New Directions

Workers' compensation systems have generally been designed to provide a wage replacement rate that only partially off-sets wages lost due to a workplace injury for the simple reason that full wage replacement would, in general, act as a disincentive to early return to work.

This objective is defeated by the tax effects of providing a wage replacement rate of 90 per cent of the pre-injury net average earnings. A growing number of Canadian jurisdictions have recognized this, and reduced their wage replacement rates to 85 per cent or even less. Accordingly, and in light of the serious pressures faced by Ontario's system, an 85 per cent rate should be adopted.

This reduction in the benefit level could be applied either to new claimants only (prospectively) or to new and existing claimants (retrospectively). If the objective of reducing the wage replacement level is to maximize the incentive to return to work, the reduction should be applied only where it is likely to influence the incentive to return to work. Since the claims of most existing benefit recipients will have long been settled, it is unlikely that a benefit reduction would influence

their decision to return to work. In fact, many of these benefit recipients will have withdrawn from the labour force. As such, applying the reduction to this group of workers could be seen as punitive.

Accordingly, the reduction should be applied only to new claimants, since a lower benefit level is most effective as a return to work incentive during the period immediately following the injury. This is consistent with benefit level changes adopted in jurisdictions like New Brunswick and Nova Scotia, which provide for lower benefits for the first weeks after an injury.

It is important to note that the reduction in personal provincial income tax announced in the recent Budget will have the effect of softening the impact of a reduction in the wage replacement rate. Since workers' compensation benefits are calculated as a percentage of net earnings, a reduction in income tax that increases net earnings will also increase the amount of benefits payable. Based on WCB estimates, the tax reduction when fully implemented could have the effect of increasing benefits by about two per cent.

Other significant instances of overcompensation should be addressed at the same time:

- To address the problem of some workers receiving a FEL award before a NEL award is granted, the Act should be amended to state that there must be a recognized permanent impairment before a FEL is granted.

- To ensure that FEL benefits are calculated in a way that more accurately reflects the worker's earnings before the injury, the Act should be changed to require the WCB, in appropriate cases, to recognize the seasonal or intermittent nature of the worker's pre-injury employment.

- To address the problem of FEL recipients returning to work with little or no wage loss, the WCB should be given the authority to review and re-calculate the FEL benefit at any time between the initial decision and the final review where there is a material change in circumstances. The

WCB could also be given the discretion to conduct annual reviews for a period of up to six years from the date of the FEL decision, as well as the power to review an award at any time where there has been fraud or misrepresentation.

- Currently, the Act requires the WCB to set aside an additional 10 per cent of every FEL benefit to provide the worker with a retirement income loss benefit. To mirror common pension plan arrangements, the amount of the benefit that the WCB is required to set aside should be reduced to 5 per cent, with the worker having the option to contribute an additional 5 per cent from the FEL payment.

Recommendations

Adjust workers' compensation benefits prospectively to 85 per cent of pre-injury net average earnings.

Reform the dual award system to correct for the incidence of unintended overcompensation.

III. Refocusing the System: Workers' Compensation as a Workplace Accident Insurance Plan

This section of the Report reviews the problems that need to be addressed to restore the integrity of the workers' compensation system as a workplace accident insurance plan. The following discussion approaches this challenge from three perspectives: the need to attain greater certainty as to the types of disabilities that a workplace accident insurance plan should cover; the need to guarantee equal access to the protection of the Act and to ensure that the collective liability pool remains solvent; and the need to deliver an efficient and effective service to workers and employers.

A. *Insuring Against Workplace Accidents: Entitlement to Compensation*

Principle

Workers' compensation should insure workers only against injuries caused by employment.

Problem

The key problem is that entitlement to compensation under the Act has expanded beyond the boundaries of a workplace accident insurance plan under which benefits are paid only to workers whose injuries have been caused by their employment.

The problem of determining causation by work does not normally arise in the typical case of an injury caused by a sudden event (an "accident") such as a fall or a laceration. The difficulties arise in cases where it is argued that the injury is the result of a series of repeated actions over time, a result of exposure to particular toxins, or a result of multiple factors. In these cases, the role of the employment in causing the injury and the disability is less clear, because it is often difficult to identify a particular event or incident that could be said to be the "cause" of the injury.

The composition of work injuries has changed over the last 30 years. The incidence of soft-tissue injuries has increased relative to the incidence of injuries with more objective symptoms ... It is questionable whether workers' compensation programs should compensate conditions such as chronic stress or chronic pain at all.

TERRY THOMASON, PROFESSOR, MCGILL UNIVERSITY, *CHRONIC STRESS: WORKERS' COMPENSATION IN THE 1990S* (1995)

The Act addresses this work causation problem in the context of gradual process injuries, such as repetitive strain injuries, by defining the word "accident" to include a "disablement arising out of and in the course of employment."

To clarify the persistent causation problem, the Workers' Compensation Appeals Tribunal (WCAT) has adopted a test of "significant cause": an injury is compensable if the work is a significant cause of the injury.

However, the problem of uncertainty in entitlement remains. The result has been unpredictability in outcomes, a high incidence of litigation, a tendency to compensate for disabilities caused by factors in addition to employment and, consequently, a rise in system costs.

Three examples illustrate the problem:

- *Chronic Stress:* The WCB has always compensated for mental stress that results from a sudden and unexpected traumatic event, but not for chronic occupational stress that develops gradually over time on the basis that the work-contribution could not be determined with any certainty. WCAT continues to compensate chronic stress claims on the ground that they should be treated the same as other gradual process injuries.

- *Chronic Pain:* The WCB compensates chronic pain on the basis that it is a consequence of a compensable injury. Chronic pain is defined as pain that persists beyond the usual healing time for an injury and is a complex phenomenon without any directly evident physical cause. It is therefore inherently problematic for a system of insurance against workplace injuries, since there can never be assurance that, in the presence of a broad range of other factors, the employment is a sufficient cause of this disability.

- *Strain and Sprain Injuries:* Disabilities resulting from strains and sprains (which account for about three-quarters of all FEL awards) are commonly attributable to multiple causes.

Consultations

Stakeholders recognize the challenge of clearly establishing the work-relatedness of disabilities in today's workplace. The consultations demonstrated that there are no easy answers to this dilemma. In individual meetings with Minister Jackson, injured workers often told of their long drawn out battles with WCB adjudication and appeals staff in the determination of entitlement, and expressed preference for an approach which would give them greater predictability and certainty.

For employers, the system has lost sight of its initial purpose of compensating for clearly work-related injuries, and is compensating conditions with multiple causes and questionable workplace connection. As the Ontario Mining Association notes, broad interpretations of the current definition of accident are "responsible for creating parallel but dissimilar sets of rules or criteria of entitlement within the system, frustration and injustice among sectors of employers and unsustainable cost pressures on Ontario's workers' compensation system."

Many employers support a strengthened entitlement test which requires that work be the "predominant cause" of the injury and which excludes compensation for "ordinary diseases of life". However, the Ontario Federation of Labour states in its submission that "the system will be in chaos" as "workers must try to prove that each injury has a 51 percent workplace cause and employers will be trying to prove it was less." Pointing to statutory precedents in Manitoba and Nova Scotia, many employers support the statutory or regulatory exclusion of conditions, such as chronic pain and chronic stress.

The issue of compensation for occupational disease is no less challenging for stakeholders. Both labour and employer stakeholders acknowledge the need for further scientific and policy research in the relationship between disability and disease and work, though there is disagreement whether such research should be based in an independent agency or in a body accountable to the WCB board of directors. Moreover, while injured workers and organized labour criticize the existing system for being unduly restrictive and

slow in recognizing legitimate cases, employers support a strengthened test for compensability.

New Directions

All workers' compensation systems have at one time or another struggled with the challenge of achieving greater certainty and predictability in entitlement to compensation for workplace injuries. While the challenge is formidable, the financial situation of Ontario's system, and the frustration experienced by its clients, do not permit inaction on this front.

While adopting an entitlement test like "predominant cause" would signal the government's intention to tighten up the system, it is doubtful that adding such language to the Act would be much more than a symbolic measure. In fact, changing the language of entitlement could introduce more uncertainty and cause more litigation.

A more concrete first step toward achieving greater certainty in the entitlement rules is to place reasonable boundaries around the compensability of those multiple cause disabilities that have presented difficult problems of proof of work-relatedness. In particular, Ontario should follow Nova Scotia's lead and limit compensation for chronic stress and chronic pain.

The rationale for excluding chronic stress legislatively is that there can be little assurance that, in any one case, the employment has in fact caused a psychological disability that has so many other potential non-work causes. Precluding compensation for chronic stress will also resolve the conflict between the WCB and WCAT on this issue. However, the WCB should continue to compensate for mental injuries caused by sudden and unexpected traumatic events.

The rationale for limiting compensation for chronic pain is that pain which persists beyond the usual healing time cannot be causally related with any confidence to the original injury in the absence of identifiable organic change explaining the persistence of the pain. Whatever connection the pain had to the original injury becomes insignificant over time when

Better outcomes in chronic pain would be achieved if there were a simpler, clear cut compensation mechanism that encouraged early return to work, even if the work is modified or the work changed, assessment by multidisciplinary groups skilled in the management of chronic pain, and lessened antagonism among the various players.

DR. T. J. MURRAY
PROFESSOR OF MEDICINE, DALHOUSIE UNIVERSITY
CHRONIC PAIN STUDY REPORT TO WORKERS' COMPENSATION BOARD OF NOVA SCOTIA (1995)

considered together with the numerous other factors commonly associated with the pain.

This is not to say that there should be no compensation for chronic pain. Rather, it would be appropriate for the WCB to set out, in a regulation, the conditions under which chronic pain is compensable for a limited period of time, based on the usual healing time of the injury. The purpose of permitting compensation for a limited period is to enable the WCB to provide assistance to the worker in coming to terms with and managing persistent pain that is caused by factors other than the work injury. Once the WCB's assistance program is completed, benefits would cease.

While this change will provide a measure of greater certainty and predictability in entitlement, it does not address the full dimension of the problem associated with multiple cause and gradual process injuries. There is little question that there is an urgent need for much greater clarity in the rules governing entitlement to compensation for repetitive strain injuries and occupational diseases. Workers deserve clarity around their entitlement to benefits, without the nuisance of litigation; and employers deserve more certainty as to what they are liable to fund.

It is clear that the solution to this complex problem is not simply to exclude compensation for repetitive strain injuries or diseases; there is no question that disabilities should be compensable if they are caused by employment. A number of approaches to a solution were examined during the course of this review, for example:

- Excluding from the Act "diseases of ordinary life", as was done in Manitoba, to preclude compensation for diseases with multiple, lifestyle causes;

- Replacing the outmoded language of entitlement in the Act ("arising out of and in the course of employment") with plainer language such as "caused by employment";

- Compensating for occupational diseases and gradual process injuries on the basis of a comprehensive schedule rather than case-by-case.

Occupational illness presents difficult if not insuperable issues regarding compensability ... First, there are diseases of unknown or uncertain causation...So-called ordinary diseases of life, and the aging process also pose difficulties for many compensation systems. Generally the problems arise primarily in cases of diseases where there is not likely to be a single, discernible incident that is immediately associated with the resulting injury or illness.

PETER BARTH, PROFESSOR OF ECONOMICS, UNIVERSITY OF CONNECTICUT *COMPENSATING WORKERS FOR OCCUPATIONAL DISEASES: AN INTERNATIONAL PERSPECTIVE* (1995)

These approaches merit further examination within the broader context of research into the prevention and management of multiple cause disabilities.

Recommendations

Amend the Act to:

- *Preclude compensation for chronic occupational stress; and,*
- *Compensate chronic pain in accordance with guidelines for usual healing time set out in a regulation.*

Conduct further research into the prevention, management and compensation of multiple cause disabilities.

B. Building a Durable System: Coverage under the Act

Principle

Coverage under the Act should be based on insurance principles, on equal access to the benefits of the Act for similarly situated workers, and on rationality and certainty in administration.

Problem

Under the current approach to coverage, based on schedules listing covered industries, industries are either omitted or specifically excluded, while new and emerging industries are unintentionally left out of the Act. As a result, only some 70 per cent of Ontario's workforce receives the benefits and protection of the Act, the lowest level of coverage of any jurisdiction in Canada. That number is predicted to decline to 65 per cent within five to ten years if current trends continue.

The other serious consequence of this approach to coverage is that as the economy restructures, the WCB's revenue base continues to erode, placing increasing financial pressures to fund the system on the remaining firms.

Consultations

The uniquely low level of workers' compensation coverage in Ontario is recognized by most injured worker and employer organizations. For the Ontario Federation of Labour, "increasing coverage to include all employers will add stability to the Board's financial situation as the economy continues to restructure."

Many employers agree that the extension of workers' compensation to uncovered sectors should be explored, so long as this expansion is based on "deficiencies" in the disability insurance available to Ontario workers and is not aimed at generating revenue to help the WCB to reduce its unfunded liability. The organization representing federally regulated employers (FETCO), for example, acknowledges that an inclusive approach to coverage "might eliminate a number of special hardship situations" and increase "predictability" in the system.

Other organizations, such as the Employers' Advocacy Council, suggest that any exemptions from workers' compensation coverage should "at the very least have in place a comparable program to the provincial workers' compensation program." The Canadian Bankers Association takes the position that "federally regulated employers are already required by federal law to meet provincial compensation standards" and should not, therefore, require coverage under provincial legislation.

New Directions

There are compelling business and insurance reasons for expanding coverage under workers' compensation legislation.

Like any insurance plan, the WCB system requires a sufficiently broad revenue base to ensure ongoing financial viability. That base should include, in addition to higher risk industries, lower risk industries since they play a vital role in maintaining the solvency of the insurance plan. Broader coverage would ensure the long-term durability of the system by ensuring that lower risk industries, as well as new and emerging industries, are included in the revenue base.

Since coverage under the Act is largely a product of historical circumstance rather than a result of a rational process which takes into consideration the nature of the industry or the type of employment, many anomalies result: for example, accounting firms are covered but law firms are not. The resultant uncertainty provides firms with an incentive and an opportunity to avoid their statutory obligations by seeking to be characterized as non-covered industries.

Coverage protects employers against law suits, and guarantees workers a level of disability insurance which is fair and adequate. Workers not currently employed in mandatorily covered industries are completely dependent on their employer's decision to apply for coverage, and in many cases now receive compensation that is inadequate and uneven. The importance of ensuring complete coverage for all workers was a common concern of workers throughout the consultation process.

Increasing coverage to include all employers will add stability to the WCB's financial situation as the economy continues to restructure.

ONTARIO FEDERATION OF LABOUR

Two approaches to expanding coverage are available. One is to extend coverage, effective January 1, 1998, following the model prevalent in a majority of Canadian jurisdictions. Under this approach, all employers would be covered under the Act, and the WCB would have the authority to exclude specific industries. The WCB's exercise of its power to exclude industries would have to be based on rational and justifiable criteria. This approach has the virtues of simplicity and clarity, and will reduce challenges and litigation over which firms are covered and which firms are not.

One of the effects of adopting this approach to coverage is that, in a partially funded system like Ontario's, new entrants could be required to assume a portion of the unfunded liability. Non-covered industries express the concern that it would be unfair for new entrants to assume a portion of the unfunded liability because they have not contributed to its growth. To allay such concerns, the WCB could, for example, exempt some new groups from being required to pay a charge to pay down the unfunded liability as part of their assessment rates.

In addition to the unfunded liability issue, there are other complex implementation issues associated with a broader approach to coverage. One involves a determination of the rate group to which new entrants would be assigned and their corresponding assessment rate. A further complicating factor is that all but two rate groups are not at their target assessment rates. This poses a problem because the WCB will have to determine whether to charge new entrants the rate that is currently being paid in the rate group or that required to cover the full cost of operating the system.

These concerns suggest that a second approach involving a more consultative process should be pursued for extending coverage. Such an approach would see the WCB engaging in a process of extensive consultations with covered industries and potential new entrants on the expansion of coverage and the criteria for exclusions from coverage. The WCB would then report back to the Minister of Labour.

This approach would maintain the objective of broader coverage based on sound insurance and business principles. At the same time, it will ensure that the complex implementation questions are addressed and a fuller assessment of the impact of extending coverage on uncovered sectors is made before changes are adopted. In addition, the approach will enable the WCB to make substantial progress on bringing firms up to their target rates and putting in place a new funding strategy to retire the unfunded liability based on measures outlined in this report, before new industries are brought into the system.

Recommendations

Require the WCB to undertake consultations and a full financial review to determine appropriate extensions of coverage to employers and their workers based on sound insurance and business principles, and to address implementation issues and stakeholder concerns.

The WCB will report back with recommendations to the Minister of Labour by January 1, 1998.

C. *Streamlining the Administration of Workers' Compensation*

Principle

The workers' compensation system must be administered to serve workers and employers effectively and efficiently.

Problems

Ontario's large and complex workers' compensation system inevitably generates a great number of decisions, and appeals from those decisions. In addition, the absence of reasonable constraints on what issues may be appealed and when they may be appealed provides an incentive to bring an appeal, whatever the merits. The result: skyrocketing appeal volumes, rising administrative costs, revenue losses, increased unpredictability in outcomes and system costs, and the rise of an advocacy industry.

The Workers' Compensation Appeals Tribunal (WCAT) has introduced a measure of accountability and openness in the system. At the same time, the presence of WCAT has also resulted in increased complexity and delay in the system. In addition, the availability of an external appeal avenue for any issue, however little merit the issue may have, has provided a greater incentive at times to litigate issues at the expense of workers, employers and the system.

The statutory mechanism designed to structure the relationship between the WCB and WCAT and ensure a smoothly functioning appeal system has failed. As a result, the WCB has been unable to assert its role as manager of system and there is uncertainty on a broad range of issues where WCAT and the WCB disagree, and unpredictability in decision-making and costs.

The creation of the Occupational Disease Panel (ODP) has not, for a variety of reasons, resulted in as significant an improvement to the adjudication of occupational disease claims as originally anticipated. Moreover, there has been duplication of efforts between the ODP and the WCB.

Under section 93 of the Act, the WCB board of directors has the power and also, it has always been thought, the responsibility, to review confirmed Tribunal interpretations of the Act that conflict with WCB policies...however, the WCB's commitment to that view of the board of directors' responsibilities appears to have waned.

REPORT OF THE CHAIR, WORKERS' COMPENSATION APPEALS TRIBUNAL ANNUAL REPORT, 1992 AND 1993

A key concern with respect to the Office of the Worker Adviser (OWA) and the Office of the Employer Adviser (OEA) is whether it is appropriate for the WCB to fund, at a cost of nearly $14 million annually, institutional advocates that challenge the WCB.

Consultations

Employers and injured workers alike criticize the existing workers' compensation system for its administrative complexity, litigiousness, and shortcomings in offering efficient, effective, and timely service.

Injured workers often spoke of their difficulties and delays in getting their claims processed, contacting WCB staff and understanding WCB decisions. In particular, there were complaints about the long delays involved in resolving appeals to the WCB and WCAT. As one injured worker in the Niagara region notes, "I feel that I'm trapped in a system that can't reach a final decision."

Measures that would facilitate claims adjudication and eliminate bureaucracy would be welcome. For example, mediation and other forms of alternate dispute resolution should have a role, provided the worker is represented and not subject to duress...

LABOURERS INTERNATIONAL UNION OF NORTH AMERICA

The Minister heard a variety of suggestions from employers, injured workers, and health care providers to streamline the administration of the workers' compensation system. Representatives from the employer community propose time limits on appeals, restricted appeal rights on such issues as NEL ratings, and the expanded use of alternate dispute resolution. The Labourers International Union notes that "measures that would facilitate claims adjudication and eliminate bureaucracy would be welcome" and that "mediation and other forms of alternate dispute resolution should have a role, provided the worker is represented and not subject to duress".

Organized labour supports the retention of WCAT to avoid the situation of the pre-WCAT era when "the Ontario Ombudsman's office was overrun with workers' compensation complaints". Many employers indicate support for a reformed WCAT. However, the employer community is of the view that the WCB should have the "final say" in the case of policy conflicts between the two agencies, with WCAT adjudicating within the bounds of WCB policy.

CFIB Survey results show high levels of dissatisfaction with the communications, service and attitude of the WCB, further evidence that the WCB's complex, costly, and adversarial system requires substantial reform in order to serve its smaller business clientele more effectively.

CANADIAN FEDERATION OF INDEPENDENT BUSINESS

Similarly, workers and most employers are united in their support for the maintenance of representation and advisory services for unorganized workers and small business to help them cope with the complexities of the workers' compensation system. The Canadian Auto Workers, for example, takes the position that the Office of the Worker Advisor is particularly important because "injured workers need protection from employer consultants who vigorously fight against workers' legitimate WCB claims."

New Directions

Effective administration of a system as complex as Ontario's requires efficient adjudication on a vast scale and poses a major challenge for the system's administrators. The need for a mass adjudication process that serves the greatest number of workers and employers effectively and efficiently must be balanced against the need for fairness, since the stakes can be very high for a large number of injured workers.

Effective administration requires appropriate access to appeal rights to achieve the following objectives: correctness, finality, predictability and efficiency in decision-making; fairness, openness and accountability on the part of the administrator; and effective dispute resolution within the framework of the system and not in the courts, the Ombudsman or the floor of the Legislature.

Steps have been taken in the right direction, as the WCB has begun to streamline its appeal process by consolidating its two internal appeal levels into one and providing mediation services to workers appealing re-employment and rehabilitation decisions. Further measures are needed to streamline administration, deliver decisions quickly and reduce overall system costs.

1. WCB Administration

The interests of certainty, finality and efficiency would be well served by adopting a general six month time limitation within which a worker or an employer can object to a WCB decision. A limitation period of six months is long enough to ensure that the rights of a worker or an employer are not

abridged, but also gives the WCB sufficient control over its process so that it can make rational decisions about the allocation of resources.

The WCB should be given the power to waive a time limit in an appropriate case, so long as no party is prejudiced as a result. This enables the WCB to correct mistakes, address new evidence and accommodate exigent circumstances such as an unexpected deterioration in a worker's disability.

It is important to note that the six month limit will not be appropriate in all cases, and a lesser or greater time limitation should be specified for specific matters elsewhere in the Act. For example, objections to decisions on return to work and re-employment matters should be filed within a shorter period such as 60 days because delays in resolving disputes in this area will hamper early return to work.

The limitation period on appeals should be complemented with a requirement that an objector must state the grounds for the objection. This will permit the WCB to address the appeal effectively and efficiently. The WCB should also be given the explicit authority to decide an objection on the basis of that information without a need for an oral hearing in all instances.

Certain aspects of the dual award system should also be streamlined to reduce delays, inefficiencies and eliminate the persistent logjams of claims that qualify for a NEL or FEL benefit. For example the 12 month time frame for the first FEL decision should be shifted to the point after which a worker has attained maximum medical rehabilitation (and completed the LMR plan). Other examples include:

- Replacing the little used "older worker" provision with a provision that will guarantee workers 63 years or older at the time of the initial FEL decision a loss of earnings benefit for a period of up to two years. This will ensure fairer treatment of older workers who are injured at about the age of 65 and currently do not qualify for a loss of earnings benefit.

- Permitting workers over 55 years of age to choose to have their loss of earnings compensation determined on the basis of a single assessment rather than having to go through the FEL review process. This will eliminate unnecessary steps for older workers who do not have a reasonable prospect of re-employment.

- Streamlining the process of determining a worker's NEL award to ensure that permanent impairments are processed in a more timely and effective fashion.

2. *The Workers' Compensation Appeals Tribunal*

The assessment of the appropriate role of an external appeals tribunal within a mass adjudication system should be undertaken in light of the objectives listed at the outset of this section. A tribunal that meets all of these objectives can make a strong contribution to the integrity of the system and boost system effectiveness. Three measures should be adopted in order to ensure that all of the objectives are met:

- Clarify the respective roles of the WCB and WCAT, to ensure that the WCB, as the administrator of the system, sets the policy parameters within which WCAT is required to decide. As a result, WCAT would be required to adhere to WCB policy in adjudicating appeals, whatever its views on the policy in question.

- Reduce the number of cases appealable to WCAT by precluding appeals on issues involving minor matters, by imposing a 60 day time limit within which to file an appeal and by requiring parties to seek WCAT's leave to appeal a WCB decision (which must be decided expeditiously).

- Streamline WCAT to reduce its cost and improve its efficiency by: imposing a statutory preference for hearing panels composed of a single adjudicator rather than the current requirement for tripartite panels; giving WCAT the legal authority to adopt measures that will streamline the hearing process and resolve appeals by alternatives to hearings; and requiring WCAT to hold hearings and issue decisions within a limited time frame, such as 120 days.

3. *The Occupational Disease Panel*

The ODP has contributed to the complex debate over occupational disease in Ontario and has provided the basis for compensating additional diseases during the past ten years. However, a review of its overall impact suggests that maintaining a disease research and recommendation body at arm's length from the WCB is not the optimal means to assure effective adjudication of occupational disease. In addition, it is fair to observe that there has been a confusion of roles and a degree of duplication of work between the ODP and the WCB.

There can be no doubt that there is a major role for extensive and scientifically credible research into occupational disease in Ontario to ensure that the adjudication of occupational disease claims proceeds on a sound footing and that workers with legitimate claims are compensated.

For these reasons, it is recommended that the ODP and its research functions and expertise be integrated into the WCB. The WCB could also draw on a range of other research resources, including Ontario's university research programs and its network of teaching hospitals. The WCB would then be charged with the responsibility for ensuring the scientific integrity of the grounds upon which it accepts or rejects disease claims. It is to be noted that this measure is consistent with the government's objectives in integrating health and safety administration into the WCB.

4. *Institutional Advocacy: Office of the Worker Adviser, Office of the Employer Adviser*

There is little doubt that workers not represented by unions and small employers need the assistance of bodies like the OWA and the OEA to navigate the complexities of the workers' compensation system. At the same time, these institutional advocates, which have grown in size and influence in recent years, have contributed to the rise of advocacy and the emergence of an adversarial climate, at the expense of the system that funds them. The changes needed to address this concern must be sensitive to the needs of unrepresented workers and of small business.

A balanced approach to reform in this area is based on a recognition that the OWA must continue to represent non-unionized workers who would, in the absence of the OWA, have no resources to fall back on in pursuing their claims or in resolving their problems. However, it should be clear that the continued OWA would have to be downsized and focused on advisory, educational, dispute resolution and representation services.

Employers, in contrast to non-unionized workers, have a wide array of organizations to turn to for advice and representation in workers' compensation matters. Businesses can, for example, draw on the resources of the Chamber of Commerce, the CFIB, trade organizations and other groups that have a specific workers' compensation focus. For this reason, the case for maintaining the OEA is less compelling and it could be eliminated.

To ensure that small employers have access to advice and guidance on return to work and other workers' compensation matters, the WCB should establish a small business advisory service dedicated to meeting the needs and smoothing the path for smaller employers.

Recommendations

Adopt a general six month time limitation within which a worker or an employer can object to a WCB decision, except as provided elsewhere in the Act; and require an objector to state grounds for the objection and enable the WCB to decide the objection on the basis of that information without the need for a hearing.

Maintain a streamlined Workers' Compensation Appeals Tribunal with limited authority and subject to WCB policy.

Eliminate the Occupational Disease Panel and integrate its functions into the WCB.

Maintain the Office of the Worker Adviser but downsized and limited to providing advisory and representation services to non-unionized injured workers.

Eliminate the Office of the Employer Adviser, and provide small business advisory services directly through the WCB.

Streamline the dual award system to improve the process for older workers and to reduce complexity of the non-economic loss determination process.

The cost of workers' compensation to the economy has been increasing, and an important share of that cost is being passed on to future employers through increases in unfunded liabilities... It would be appropriate to ensure that the increase in liabilities that results from retroactive increases in benefits be taken into account when these benefits are considered.

FRANÇOIS VAILLANCOURT, PROFESSOR OF ECONOMICS, UNIVERSITÉ DE MONTRÉAL *FINANCING WORKERS' COMPENSATION BOARDS IN CANADA, (1994)*

IV. The Financial Viability of the Workers' Compensation System

This section of the Report considers the adjustments to the benefit and the revenue sides of the WCB system needed to ensure that full funding of the workers' compensation system is achieved by the year 2014. The *Common Sense Revolution* called for full funding of the accident fund in order to guarantee strong investment and job growth in the provincial economy, and to improve the competitive position of Ontario employers.

Principles

The system should maintain a fair and affordable level of compensation for all benefit recipients today and in the future; and,

All employers benefiting from a collective liability scheme should pay their fair share of its costs.

Problem

As stated at the outset of this Report, benefit enhancements over the past decade have resulted in an unfunded liability whose size threatens the future viability of the workers' compensation system. In addition, because of a flaw in the WCB's funding strategy, the unfunded liability will not be eliminated by 2014 without unacceptable increases in assessment rates.

To assist Minister Jackson's analysis of this problem, the services of an external actuary were engaged in the fall of 1995. The actuary's report in January, 1996 confirmed the causes of the significant unfunded liability: legislated benefit increases granted retroactively to existing claimants; the policies used to interpret and implement legislated benefit changes have often produced significantly greater benefit payments than were intended by the legislature; and a generally liberal approach to entitlement. (See Appendix A for the full actuarial report.)

The actuary's report also confirmed that the WCB's strategy adopted to eliminate the unfunded liability by the year 2014 would not achieve its objective. This is because the strategy assumes that the WCB will always be able to collect 100 per cent of the assessments it levies on employers. The reality is, however, the WCB does not do so. For example, a certain amount of assessments payable in any year will inevitably have to be written off as bad debt.

Using appropriate financial assumptions and correcting for the flaw in the funding strategy, the external actuary, working with WCB staff, developed a financial projection model to assess the financial impact of various reforms. The actuary concluded that there would remain an unfunded liability of over $14 billion in 2014. In other words, if all things remained constant in the system, the average assessment rate required to retire the unfunded liability would have to be $3.33 from now until the year 2014.

In March 1996, the WCB released the 1995 year end results showing an operating surplus of $510 million and a decrease in the unfunded liability from $11.4 billion at year end 1994 to $10.9 billion at year end 1995. The year end results were unexpectedly positive because of:

- Increased assessment revenue driven mainly by employment growth in the manufacturing sector;

- Decreased benefit costs as a result of zero inflation, substantial over-reserving of one benefit stream, and an unexpected reduction in lost time injuries; and

- Consistent with general investment trends in 1995, an 18.8 per cent market rate of return on investments.

Unfortunately, the factors leading to the positive 1995 financial result are not indicative of emerging new trends that on their own would independently turn around the WCB's finances. The external actuary was asked to work with the WCB to revise the financial projection model to reflect the positive 1995 year end results. Taking these results into account, the projected unfunded liability of $14.5 billion is reduced by about $2 billion by the year 2014.

These unfunded liability projections are based on the current average assessment rate of $3.00 per $100 of assessable payroll. On the basis of its commitment to reduce barriers to investment and job creation, the government announced in its May 7 Budget Speech that it would reduce the average assessment rate by 5 per cent.

As a result, the actuary was asked to project the unfunded liability at an average assessment rate of $2.85, effective January 1, 1997. In the absence of the reforms proposed in this Report, the result would be an estimated unfunded liability of $18.4 billion by the year 2014. (Updated actuarial projections are included as an addendum to Appendix A.)

It is against this more realistic unfunded liability projection (referred to as the base scenario) that the impact of various benefit changes and other reforms are assessed. It is worth noting that the base scenario is primarily designed to assist in providing long term, comparative cost assessments of various changes, and is not meant to predict or reflect definitively actual performance of the accident fund over a series of years or any specific year.

Consultations

Employers and workers acknowledge the importance of controlling the unfunded liability, but disagree on the extent of the problem and the measures necessary to address it.

For the employer community, the unfunded liability is really a competitiveness issue since the charge needed to retire it is a large component of assessment rates. From their perspective, assessment rates are simply too high and adversely affect their competitive position. The employer community is supportive of the government's commitments to retire the unfunded liability on or before 2014 and to keep rates competitive, through an immediate 5 per cent rate reduction and further reductions in the future.

In addition to reductions in the benefit level and adjustments to the dual award system, employers propose a variety of measures to reduce the system's liabilities. Many employer associations support proposals to review and adjust

pension supplements according to a means test, end or reduce the payment of pension supplements at age 65, and apply the Friedland indexing formula to all workers. Other employers propose the elimination of indexing altogether and the repeal of the $200 supplement.

Injured worker and labour organizations disagree with the focus on the costs of the system and oppose any measures to reduce benefits. According to the Disabled Workers' Complex Case Unit Network in Thunder Bay, totally disabled workers are especially vulnerable to benefit reductions because of the additional costs they face with respect to home maintenance, transportation, communications and insurance. One Fort Erie injured worker notes, "the current majority government should take a long hard look at the workers' compensation program and its debt-load, and revise it to its original intent which was to help people who are incapable of working because of an accident."

Many injured worker and labour organizations perceive the WCB's financial challenge as a revenue problem. The OFL notes the experience rating off-balance and uncollected debts accounted for over $400 million in 1994 and states that the WCB should "implement an aggressive collection policy for bad debts and change legislation to make the Board a first payer when firms cease operations, after workers have received their wages and benefits." The OFL and other labour organizations also support the elimination of the off-balance as a means of increasing revenue, and the accelerated transition of employer assessment rates to their target rates.

Employers support experience rating as an effective incentive for preventing workplace accidents and re-employing injured workers. The Employers' Council on Workers' Compensation argues that experience rating saved the system over $450 million in workplace accident costs in 1993, and reimbursed over $250 million to employers as incentives to continue to improve their health and safety records. In its view, experience rating should be reformed to preserve the performance-based portion of the off-balance and to remove systemic problems in the formulae.

The CFIB and small employers support special merit based programs for small employers to encourage accident prevention. To ensure employers pay their fair share of costs, several major employer associations, such as the Canadian Manufacturers Association, the Motor Vehicle Manufacturers' Association and the Employers' Advocacy Council support an expeditious transition to target assessment rates. Employers whose rates are below target rate are less favourable to such a transition. Similarly, some employer groups, such as the CMA, support the adoption of measures to reduce revenue leakage in the workers' compensation system.

New Directions

1. Benefit Adjustments

The financial impact on the WCB's unfunded liability of key directions recommended so far in this Report are summarized in the table on page 52. The results are presented in terms of their impact on operations in 1997 and the unfunded liability at year end 2014. The summary reveals that the reforms reviewed to this point are insufficient, and leave an estimated unfunded liability of $12.5 billion at year end 2014.

As noted in the Discussion Paper, to achieve the goal of full funding by the year 2014, it is necessary to consider measures to contain the WCB's long term liabilities. The Discussion Paper raised a range of approaches that could be considered in capping these liabilities. The range of options included:

- Further reducing or freezing inflation protection.
- Reducing the lifetime pensions at age 65.
- Reviewing the pension supplements scheme.
- Providing pension commutation options.

In order to maintain a fair level of compensation for injured workers of today and tomorrow, it is important that reforms in this area strive to achieve the greatest cost impact on the unfunded liability and the least impact on the individual worker. This suggests that a further reduction in benefit indexation should be considered. While changes in indexing tend to reduce the value of benefits over time, they

do not require an absolute reduction in benefits. Modifying or eliminating indexing protection is being considered or implemented in a variety of income replacement schemes (for example, auto insurance and MPPs pensions) in order to achieve financial stability.

In determining the appropriate indexing changes the obvious starting point is to look to the precedent set by the previous government with the implementation of the Friedland indexing formula, effective January 1, 1995. To begin to address the unfunded liability problem, the previous government introduced a reduced indexing formula, [¾ x CPI] - 1%, with a cap of 4%, for all but certain defined benefit recipients in the system.

Building on this approach, indexing protection could be refined further in one of three ways. First, the Friedland formula could be extended to all benefit recipients. While this would be rational from an administrative point of view and consistent with other pension plans, unfortunately, this approach falls substantially short of eliminating the remaining unfunded liability. If this approach were adopted in conjunction with the recommendations in the previous sections, there would still be an unfunded liability of over $7 billion by 2014.

The second approach would be to continue to extend full CPI protection only for workers who are 100 per cent disabled and for survivors. The rest of the benefit recipients would receive indexing protection at the level of a modified Friedland formula at [½ x CPI] - 1%, with a cap of 4%. The advantage of this approach is that it achieves more significant savings to the unfunded liability, while retaining full indexing status for the most vulnerable persons. Under this approach, in conjunction with the recommendations set out earlier in this Report, the remaining unfunded liability is $3.2 billion in 2014.

A third approach would extend the current Friedland indexing protection to the benefit recipients in the system who are currently receiving full CPI and a modified Friedland formula, at [½ x CPI] - 1%, with a cap of 4% to all others. This approach retains special indexing status for the 100 per

cent disabled, surviving spouses and pensioners in receipt of the up to the $200 additional top up, but at a reduced level of indexation. Under this approach, the remaining unfunded liability is $2 billion in 2014.

These are very difficult measures, justifiable only because of the seriousness of the unfunded liability and the threat it poses for the viability of the system. While the third alternative has the greatest financial impact, the second approach is preferable because it provides full indexing protection for the most vulnerable benefit recipients while still having a significant impact on the overall liabilities of the system. While the remaining unfunded liability is estimated at slightly over $3 billion, this shortfall will be offset by the substantial savings that can be realized from the new directions set out in this Report. In particular:

- Introduction of employer direct payment, which would have a substantial impact on duration on benefits;

- Changes to return to work, primarily through the focus on early return to work and adoption of effective labour market re-entry strategies;

- Changes to compensation for loss of earnings (FEL), such as recognizing the seasonal or intermittent nature of the worker's pre-injury employment in calculating average earnings, and requiring workers to mitigate their loss of earning capacity;

- Institutional and administrative changes, such as integrating activities of the ODP and the OEA within the WCB, and refocusing and downsizing WCAT and the OWA.

The WCB will have to derive full value from the reform measures to achieve the objective of full funding of the accident fund. Corporate restructuring of the WCB and the enhanced financial management and accountability tools introduced in Bill 15, will make the attainment of this goal possible. In addition, the WCB will be required to manage its $7.2 billion in assets more effectively and significantly improve its performance on the collection of debts.

The WCB will have to ensure that an appropriate portion of the overall system savings derived from the new directions and from better management is retained for purposes of reducing and eliminating the unfunded liability on target. There is no question that the government expects assessment rates to decline further, but they should do so in a way that is consistent with the long term financial health of the system.

Financial Impact of New Directions

	1997 Operations ($ Millions)	2014 Unfunded Liability ($ Billions)
Base Scenario	(295.6)	18.4
Less Savings From:[1]		
Chronic Pain	33.9	1.4
Retirement Income Adjustment	31.4	1.4
Prospective Benefit Reduction to 85%	68.9	3.1
Revised Indexation Formulae	219.0	9.3
Remaining Unfunded Liability		3.2

[1] Actuarial Projections

Recommendation

Adjust inflation indexing so that benefit recipients receive indexing protection at the level of a modified Friedland formula at [½ x CPI] - 1%, with a cap of 4%, but retain full indexing to CPI for workers who are 100 per cent disabled and for survivors.

2. Revenue Side Adjustments

While benefit adjustment measures go a long way toward restoring the financial viability of the system, additional critical measures are required on the revenue side to ensure that the WCB achieves and maintains this goal. These revenue measures are consistent with the principle enunciated earlier that all employers benefiting from a collective liability

system pay their fair share of its costs. As the Discussion Paper stated, reforms are necessary in three key areas:

1. The process of moving firms to their target assessment rates must be completed within a reasonable period of time.

2. The magnitude of the experience rating "off-balance" in net refunds must be contained.

3. The incidence of bad debts and revenue loss must be reduced.

(i) Getting Firms to Their Target Assessment Rates

In 1993, the WCB introduced a new classification system in an effort to match more closely business activity and injury risk in the rate group structure. Under the new system, employers are classified into nine broad industry classes, which in turn are divided into 219 rate groups. For each rate group, the WCB sets an appropriate target assessment rate – a rate which reflects the full cost of operating the workers' compensation system.

To implement the new classification system, the vast majority of firms needed to move either upwards or downwards to their new target assessment rates. To facilitate this process, in 1994 the WCB also established a lower transition rate for each group. The WCB tried unsuccessfully to implement the transition to target over the next 3 years.

Today, 109 rate groups are still above their target rates while 108 are below. In order for the system to operate fairly, firms need to pay assessments at their target rates. This means that the rates for most firms will need to be increased or decreased. The impact of the delay in moving to target rates is that firms above their target rates subsidize the firms that are below. This is not only unfair, but it also distorts experience rating and exacerbates the experience rating off-balance problem.

The following table lists some of the rate groups which remain above their respective target rates; that is, they are paying too much.

Selected Rate Groups Above Target Rates: 1996

Industry	Actual Rate	Target Rate
Gold Mines	9.92	8.09
Uranium Mines	10.11	8.09
Field Crop Farms	4.43	3.27
Dairy Products	3.43	2.75
Steel Industry	4.71	2.94
Aluminum Industry	5.11	3.31
Motor Vehicle Assembly	6.69	4.81
Natural Gas Distribution	.81	.40
Power & Water Distribution	2.45	1.24
Hospitals	1.69	1.10
Communications Industries	.70	.40
Local Government Services	1.87	1.60

The table below lists some of the rate groups which remain below their respective target rates; that is, they are paying too little.

Selected Rate Groups Below Target Rates: 1996

Industry	Actual Rate	Target Rate
Diamond Drilling	14.23	18.66
Landscape Services	6.06	8.06
Aircraft Industry	3.85	3.96
General Trucking	7.23	7.50
Ambulance Services	6.62	8.83
Construction:		
Roofing	7.87	12.45
Masonry	7.87	17.38
Home building	7.87	11.68
Inside Finishing	7.87	12.45
Nursing services	3.00	3.56
Residential Care Homes	3.00	5.61
Treatment Clinics	.76	1.17
Janitorial Services	4.99	5.91
Supply of Labour (non clerical)	1.76	6.05

To ensure that all employers pay their fair share, a new strategy is required to get firms to their respective target rates over a limited period of time (perhaps 2 or 3 years), with appropriate consideration being given to longer term phasing for those rate groups far below their target rates.

It should be noted that the changes recommended in this Report should expedite the transition process since a reduction in the WCB's unfunded liability will have the effect of reducing target rates and hence the distance firms need to travel to complete the transition process under the new classification system.

It is recommended, therefore, that the WCB develop a revised plan to complete the transition to target rates. This process will be accomplished in the context of achieving an overall average assessment rate of $2.85 effective January 1, 1997.

(ii) The Experience Rating Off-Balance

Since the introduction of experience rating in 1985, there has been a persistent "off-balance" in net refunds, that in the last few years have, on average, totalled over $200 million annually. This has been a particular concern in recent years because the WCB paid out these large refunds at the same time as it transferred some $1.65 billion from the investment portfolio to general operations to pay for benefit payments.

Experience Rating (Refunds) Off-balance: 1985 - 1995 ($ Million)[1]											
Program	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
CAD-7	4.6	0.4	3.5	9.1	27.1	35.3	43.3	41.6	29.6	14.3	10 4
NEER	0.1	0.4	12.9	22.9	0.5	35.7	2.4	42	156	249	193 3
Total Off-Balance	4.7	0.8	16.4	32	27.6	71	45.7	83.6	186	263	203.7

[1] *Source: WCB*

The existence of the off-balance places upward pressure on the unfunded liability since these refunds are not financed through the next year's assessment rates; rather, they flow directly into the unfunded liability. Consequently, correcting the off-balance is an important element in the strategy to retire the unfunded liability by 2014. It is important to note that, consistent with experience rating programs in some jurisdictions, the financial projection model assumed an off-balance that in the long-run would be 2.5 per cent of gross assessment revenues.

The causes of the (NEER) off-balance can be grouped into two main categories: performance based and structural or methodological causes. The former refers largely to situations where employers within a particular rate group collectively generate accident costs that are below the level projected in that year's assessment rates. The latter may occur for a number of reasons, many related to the methodology used by the WCB to set liabilities, the various cost parameters of the NEER program and the delay in firms reaching their target assessment rates.

If an off-balance like that experienced over the last several years were to continue over the next 20 years, some $6 billion more would be added to the projected unfunded liability by 2014. In addition, to the extent that the performance based off-balance is attributable to an over-estimation of accident frequency in the WCB's assessment rate setting model, the WCB is potentially overstating the costs of the system, resulting in assessment rates that may be artificially high. A consistently high off-balance is also unfair to small employers, who have a larger insurance element in their experience rating formulas and hence do not benefit as much as larger employers from rebates.

The WCB should address the specific causes of the off-balance rather than place some artificial cap on its size. By modifying the rate setting model the WCB would make a substantial contribution to reducing the size of the off-balance and (under current conditions) could potentially reduce target assessment rates. Of course, the methodological problems that have arisen over the years (possibly generating as much as 40 per cent of the off-balance) should be addressed as well.

It should be recognized that changes to the rate setting model that make it sensitive to more recent actual accident frequency will result in lower target rates. This is because a decline in accident frequency is reflected more quickly in the new claims component of next year's rates. Obviously, if accident frequency begins to increase, this too will be reflected more quickly in rates and thus lead to more rapid rate increases. In order to avoid large fluctuations in rates, therefore, it may be necessary to take a balanced approach to preserve rate stability.

Expediting the transition of firms to their target rates and fixing the experience rating off-balance are matters properly within the administrative expertise of the WCB. However, it is important that the government set an expectation that the WCB address its revenue-side problems and provide the WCB with the support it needs to do so.

Accordingly, the WCB should review these matters and its strategy to retire the unfunded liability and report back to the Minister of Labour within a tight but reasonable time frame, such as July 1, 1997. This will provide assurance that the government's commitments to retiring the unfunded liability, reducing assessment rates and improving the competitiveness of Ontario businesses are met.

(iii) Revenue Leakage

The Act currently provides the WCB with a set of weak and outmoded tools for collecting outstanding debts from employers. Revenue leakage results from employers who fail to meet their obligations to pay assessments to the WCB. The result has been a consistently high bad debts charge every year ($173 million in 1995) which is added directly to the unfunded liability and is reflected in higher employer assessments.

While bad debts are a systemic feature of the system and a certain level of bad debt expense must be anticipated, changes to the Act should be made to strengthen the WCB's enforcement and collections powers to ensure that this expense is minimized. Recent changes to the Alberta workers' compensation legislation provide a good precedent for potential changes.

Important changes would include, for example, requiring persons applying for personal coverage to pre-pay for that coverage and permitting the WCB to recover outstanding amounts from the benefits payable. Other changes would ensure that an employer in default of payments to the WCB who sells or transfers ownership of stock or equipment to a related or associated employer is liable to the WCB for the outstanding debts to the WCB. Similarly, the WCB should have the legal authority to treat associated or related activities

or businesses as one employer for purposes of the Act, in order to curb attempts to avoid statutory responsibilities.

The effect of these changes would be to improve the WCB's ability to collect overdue assessment premiums. This would reduce the pressure on the unfunded liability and the incidence of good employers subsidizing delinquent employers.

Recommendations

The WCB will review and report back to the Minister of Labour by July 1, 1997 on:

- *the parameters of a new funding strategy (which incorporates the government's reform initiatives and the 5 per cent assessment rate reduction effective January 1, 1997);*
- *measures to expedite the transition of rate groups to their respective target assessment rates (with necessary consideration being given to groups significantly below target);*
- *measures to modify the assessment rate setting model so that it is more responsive, without sacrificing rate stability; and*
- *measures to improve experience rating, including steps to eliminate any technical or methodological problems that are giving rise to an off-balance;*

The Act should be amended to equip the WCB with the necessary powers with which to collect outstanding assessment debts from employers.

APPENDIX A

Report of William M. Mercer

WILLIAM M. MERCER

Report

to

The Workers' Compensation Secretariat on the

Financial Position and Funding Strategy

of the

Workers' Compensation Board of Ontario

Prepared by:

William M. Mercer Limited
161 Bay Street
P.O. Box 501
Toronto, Ontario
M5J 2S5

January 26, 1996

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I. EXECUTIVE SUMMARY

The terms of reference for this actuarial report include an evaluation of the current funding strategy used by The Ontario Workers' Compensation Board. The purpose of this strategy is to prefund the cost of new injuries, cover current administrative costs and amortize the existing unfunded liability.

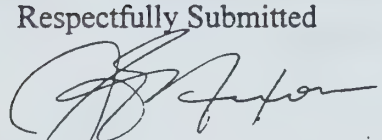
An illustration demonstrates that, in theory, the unfunded liability can be liquidated by determining an amortization payment that is expressed as a level percentage of increasing payroll as is done currently. However, in practice, several of the critical underlying assumptions probably will not be realized with the result that a significant unfunded liability will remain in the year 2014.

In addition, the report presents a projection of the funding position year by year until the year 2014, using reasonable and appropriate actuarial assumptions, and assuming no change in current assessment rates or funding strategy. On this basis a financial projection model used by the WCB indicates that the unfunded liability is expected to be $14.5 billion by 2014. The Workers' Compensation Board and William M. Mercer Limited consider the assumptions used to be reasonable and appropriate for the purpose of preparing this financial projection.

The report then indicates that a schedule of annual assessment rates increasing from $3.09 to $3.68 would be required to ensure that no unfunded liability exists by the year 2014.

Our involvement with producing the financial results consisted of applying tests to the WCB's financial projection model to satisfy ourselves that it produced results consistent with expectations. We discussed and reached consensus with the Board on assumptions that were used for the projection of the financial position and construction of annual assessment rates. We relied on the accuracy of the Board's existing data and its calculation systems, subject to tests for reasonableness.

Respectfully Submitted



J. Edward Nixon, F.S.A., F.C.I.A

WILLIAM M. MERCER

II. FUNDING STRATEGY

Assessment Rates

The Ontario Workers' Compensation Board has determined that the 1996 Schedule 1 target assessment rate is $3.01. This rate consists of three principal components;

- the expected cost of new claims/injuries occurring in 1996,
- the expected cost of operating the WCB and all other legislated obligations for 1996, and
- an amortization payment to be made against the workers' compensation system's unfunded liability.

The expected cost of new injuries represents the cost to fully fund the cost of all payments, including all payments made in years subsequent to 1996, that are to be made with respect to accidents that occur in 1996.

The expected cost of operating the WCB, or in other words the overhead charge, only provides the revenue to meet the 1996 operating budget. There is no charge to prefund the ongoing administration of the new claims that occur in 1996.

The required amortization payment is calculated on the basis of the WCB's funding strategy for paying off the unfunded liability. The current strategy calls for the unfunded liability to be completely paid off by the end of the year 2014. The unfunded liability is amortized as a level percentage of increasing total assessable payroll. In order to determine the required payment, the WCB must make both short term and long term assumptions with regard to interest rates, real wage growth, and workforce growth. Currently the amortization payment is computed on what is termed a "net 3% basis" which reflects approximately a 7% interest rate and a 4% growth in total assessable payroll. The payroll growth combines real wage and workforce growth. These assumptions are applied in both the short term and the long term.

Benefit Liabilities and Unfunded Liability

The unfunded liability is simply a measure at a particular point in time of the difference between the value of the workers' compensation system's liabilities and assets.

In theory, the system should have no unfunded liability. If future benefit payments on injuries from any specific year of accident always matched the expected payments included in the assessment collected in the year of accident, then assets would equal liabilities. There are three dominant reasons why Ontario has a significant unfunded liability:

- legislated benefit increases have been granted retroactively to existing claimants
- policy developed to interpret the Act and implement legislated benefit changes often has produced significantly greater benefit payments than were intended by the legislators.
- over the past 10 to 15 years the Ontario system experienced a more liberal approach to entitlement, similar to other North American jurisdictions

In each case assessment rates for the upcoming year were unable to anticipate the extra costs thus creating annual additions to the unfunded liability. In return a growing reluctance among employers to accept further assessment rate increases. Finally, the funding strategy of the WCB did not require short term liquidation of any additions to the unfunded liability.

The purpose of this analysis is to trace the future path of the unfunded liabilitiy. Thus it is necessary to understand the valuation basis of both assets and liabilities.

The value of the assets is relatively straight forward and is taken from the WCB's audited financial statements. Invested assets are carried at cost with realized gains and losses amortized over varying periods to stabilize total return.

The value of the liabilities is much more complex in its derivation. The liabilities represent the present value of all future expected payments with respect to accidents that occurred prior to the valuation date. Because of the wide variety of benefits provided under the workers' compensation system the liabilities are determined for each benefit category (i.e. temporary compensation, FELs, NELs, pre-Bill 162 pensions, etc.) separately. The liabilities are determined based on the historic run-off of claim payments for each benefit. For some of the newer benefits, such as FELs, management's best estimates of the true run-off are used to set the liabilities. As actual experience develops these estimates will be modified to reflect actual run-off. In addition to the assumptions regarding claim run-off, long term economic assumptions such as interest and inflation rates must be used to determine the liabilities.

We have not expressed an opinion as to the validity of the assumptions, the actuarial methods, or the data upon which the valuation of liabilities is based for the WCB's financial statements. The WCB's audited financial statements include an independent opinion on the appropriateness of the assumptions and accuracy of the results.

The Board's assumptions regarding future payments on existing claims are based upon considerable historical experience. Where historical experience is inadequate such as for the new benefits prescribed by Bill 162 in 1990 then management must provide the Board actuary with their best estimate of future payment patterns. For instance we are aware that establishing assumptions for the severity and duration of Future Economic Loss Awards and their Rehabilitation Supplements has been a challenging issue. Early indications are that actual experience is more adverse than assumed. The Board, to date, has concluded that more experience is needed and has relied on a modest margin in other assumptions to permit the actuary to certify that in aggregate that the liabilities are sufficient to cover future expected payments.

The unfunded liability at December 31, 1994 was $11.4 billion and is expected to be about $11.6 billion at December 1995. The 1996 average Schedule 1 assessment rate of $3.01 includes $0.89 per $100 of payroll as the amortization payment required to liquidate the unfunded liability by the year 2014.

There has been confusion about the meaning of this unfunded liability payment. It is said to be the constant payment as a percentage of payroll that if charged each year will retire the unfunded liability by 2014. However, sometimes the WCB says it is only a valid rate for the current year and that the rate will vary each year in the future. There is a perceived inconsistency in these statements.

Confirmation of 1996 Unfunded Liability Charge

Mercer obtained sufficient information from the WCB to reproduce the unfunded liability component in the 1996 target assessment rate.

The information was obtained from the Board Actuary, and was the information used for setting the 1996 target assessment rates. We note that when we apply the $3.01 target assessment rate to the $91.3 billion payroll figure we produce a total gross assessment of $2.75 billion. This is consistent with the WCB's own original 1996 revenue projections.

Given the above information we can reproduce the Board's level unfunded liability charge of $0.89 per $100 of payroll, which if collected over the period of 1996 to 2014 will liquidate the unfunded liability. We illustrate this in Appendix A.

This charge is sufficient under the following circumstances:

- 100% of gross assessments are collected throughout the 19 year period,
- there is no experience rating off-balance throughout the 19 year period,
- payroll increases at a rate of 4% per annum from an estimated $91.3 billion payroll for 1996
- the unfunded liability grows at a rate of interest of 7.12%, and
- there is no additional unfunded liability generated due to either experience gains or losses, or additional retroactive benefit entitlements.

In the next section we begin to examine what happens if these assumptions are not valid for the entire time period.

III. ASSUMPTIONS FOR FINANCIAL PROJECTIONS

For the purposes of making a financial projection of assessments, benefits, expenses and the unfunded liability position, it is necessary to consider whether the assumptions used in the short term to set 1996 costs are valid over the long term for each new year of claims.

Of course a fundamental premise of this financial projection is that the system will remain status quo with respect to benefits and services. Thus it is not the purpose of this projection to hypothesize that there will be legislative or policy changes to benefits or services. However, as in the past, the reality is that there will be legislative and policy changes and they will have an impact on the unfunded liability.

This financial projection focuses on the most likely course for the funding position of the system with no change in assessment rates or benefits and services.

In practice, the assumptions used to liquidate the current unfunded liability probably will not be borne out.

Further, the assumption is that the assessment rate components for new injuries and administration will be the same in future years unless there is a legislative change. However, in practice the assumptions used to set the cost of new injuries and administration also probably will not be borne out.

In total, by the year 2014 there will still be a significant unfunded liability in our workers' compensation system unless assessment rates are regularly revised, charged and collected in full.

The financial projection model at the WCB has been used to establish a best estimate projection of the unfunded liability and annual assessment rates from now until the year 2014. It is necessary to identify the distinction between assumptions used for this projection and assumptions used to produce both year end benefit liabilities for financial statements and annual assessment rates.

The assumptions used to set liabilities and assessment rates include a few assumptions which work well in aggregate for the specific task of producing a "snapshot" liability or assessment rate for the upcoming year. But these same few assumptions do not relate well necessarily when pushed through the financial projection model for 20 years. Hence there is a need to examine some assumptions explicitly and individually to produce a more realistic result.

We have discussed with the WCB and agreed upon a set of best estimate, long term assumptions to be applied to the projection of revenue and benefit payments, and to the valuation of benefit liabilities.

By comparison to assumptions used to set 1994 year end liabilities and 1996 assessment rates, the following adjustments were made:

i) ***Employment and Wage Growth***: For assessment rates the WCB has assumed nominal annual wage growth equal to CPI which is 4% in the long term. It makes no assumption about employment growth. These assumptions are relevant for amortizing the current unfunded liability over future assessable payroll. The WCB indicates that, as the covered workforce restructures in Ontario the average assessable wage has not increased in several years and probably will lag behind inflation over the next 20 years. This phenomenon is seen as peculiar to the covered workforce for workers' compensation.

   Regarding employment, the WCB believes there will be very modest annual growth in the workforce in the long term but realizes there may be reductions in some sectors and better than average growth in other sectors.

   The realistic, best estimate long term assumption on employment growth is .50% per year and on nominal wage growth is 3.50% per year. The long term CPI assumption remains at 4%. These levels are reached in 1999, being phased-in over 1996, 1997 and 1998.

   The best estimate for the 1996 assessable payroll base is about $87.9 billion in comparison to about $91.3 billion that was estimated for 1996 in mid 1995

when current rates were set. The growth in payroll originally predicted is not expected to materialize.

ii) ***Assessment Collection***: The funding strategy assumes 100% collection of revenue when setting assessment rates. However there are some assessments that become bad debts and there is an experience rating net refund. The recent magnitude has been significant and the lost revenue causes a direct and equal increase in the unfunded liability each year. The financial projection includes an assumption about uncollected assessments.

a) Assessments that are due and payable can become bad debts if an employer is unable to pay. Since the natural inclination of employers is to attempt to reduce assessments, that otherwise were payable, by any reasonable means, there always will be some revenue leakage in comparison to the amount expected when assessment rates were set. Furthermore the WCB does collect extra revenue through penalties for late payment and other fines or surcharges. The net effect of these elements is revenue leakage of about 2.5% of gross assessments.

b) Although the experience rating programs do not attempt systematically to generate net refunds or surcharges, as a practical matter they have generated net refunds. Until the last few years these refunds were modest and consistent with the experience of experience rating programs in other workers' compensation systems. On average these refunds were about 2.5% of gross assessments or about $60 million in 1995 dollars. It is not unreasonable to expect that this would be a long term realistic situation unless specific action was taken to eliminate such net refunds.

The net refunds of the past few years have been much more significant ranging from $100 to 300 million. It probably is unrealistic to consider that refunds of this magnitude would continue. Either the experience rating program is flawed, in which case it will be fixed, or the claims experience warrants the refunds in which case assessment rates will decrease. However if such refunds did persist and were

unwarranted the ultimate negative impact on the financial situation is very powerful.

iii) ***Benefit Payments***: A small adjustment was made to the pattern of benefit payments by duration for a few benefit types to reflect the WCB's 1996 forecast of benefit payments. This slightly reduced benefit payments on old claims and modestly increased them on future claims.

iv) ***Lost Time Injuries***: The long term accident frequency rate has been set at 3.85 per 100 workers in comparison to 3.61 per 100 workers that was used to set 1996 rates. This reflects a very modest improvement in the employment level in those higher cost sectors such as construction which have suffered the most during the recession.

v) ***Other Assumptions***: A wide variety of assumptions must be made when valuing liabilities for the many benefit categories which now exist. The duration and severity of claims, interest and mortality rates, expected award levels for long term claims, propensity to receive rehabilitation - all work together to produce the future expected costs. Explicit assumptions are made by the WCB wherever possible. However it sometimes is necessary to adjust an explicit assumption in order to implicitly cover a contingency which cannot be valued explicitly with confidence. The WCB audited financial statements include an independent opinion on the adequacy of the assumptions used to value liabilities. We did not consider it appropriate to selectively adjust a few assumptions to make them currently realistic, without completely evaluating the interrelationship of all assumptions.

IV. PROJECTION OF FINANCIAL POSITION

The WCB uses a financial projection model to project the balance sheet and operating surplus/deficit annually to the year 2014. Gross assessment revenue is injected and adjusted for bad debts and experience rating refunds. Expenditures for all categories of benefit payments and also administration costs are generated within the model. Liabilities for future benefit payments are revalued each year end. Assets are invested and generate annual investment revenue. The unfunded liability is adjusted each year by the surplus/deficit from operations. The model uses the Board's current basis for determining liabilities and assessment rates except for the assumptions identified in the last section.

A base scenario is created which assumes no change in the current $3.00 gross assessment rate. The projected unfunded liability in 2014 is determined and then a schedule of assessment rates to liquidate the unfunded liability is presented.

Base Scenario

An unfunded liability of $14.5 billion in 2014 is the realistic projection for the system if no change is made in the current $3.00 assessment rate. The results and key assumptions are illustrated in Appendix B. It is assumed that the revenue shortfall from bad debts and experience rating refunds is 15% in 1995, 10% in 1996 and 5% in 1997 and later years. If the objective is to liquidate the unfunded liability by 2014, then it will be necessary to charge a gross assessment rate of either:

i) a schedule of increasing assessment rates ranging from $3.09 in 1996 to $3.68 in 2014 (Appendix C), or

ii) an average assessment rate of $3.33 every year from 1996 through 2014 (Appendix C)

If the annual shortfall in revenue is 10% of gross assessments instead of 5% because experience rating refunds continue at a high level, then the unfunded liability in 2014 would be $20.6 billion. A significantly higher schedule of assessment rates also would be required to liquidate this unfunded liability.

Summary

Several factors contribute to the continuation of a significant unfunded liability under this financial projection of the system. Very small adjustments to assumptions do produce a significant accumulated impact by the year 2014.

i) The current assessment rate of $3.00 is below the 1996 target rate of $3.01 which itself may be somewhat understated since the 1996 payroll base is likely to be less than expected when the $3.01 rate was set. In fact the 1996 target assessment rate should be closer to $3.09.

ii) There is no margin added to the assessment rate to cover the anticipated shortfall in revenue collected.

iii) The long term increase in average wage of the covered workforce is expected to lag behind inflation. Since some expenses of the system are fully impacted by inflation and are not wage related this will tend to increase the cost of new injuries slightly.

iv) A very modest improvement in the economy is predicted. To some extent the reduction in accident frequency rate over the past few years is the result of some higher cost industries, such as construction, suffering the most during the recession. A modest recovery can be expected to bring with it a small increase in the accident frequency rate which of course increases the cost of new injuries.

In conclusion, continuation of the current practice regarding assessment rate setting and funding strategy is very unlikely to eliminate the unfunded liability without significant increases in the assessment rates based on current legislation and policies.

Amortization of the Unfunded Liability

Scenario: Liquidation of the Unfunded Liability based on target rate of $3.01 if all assumptions are met.

Projected Growth in Payroll	4%
Interest Rate	7.12%

Year	Gross Assessment Rate	Percent of Revenue Collected	Net Assessment Rate	Shortfall	Required Amortization Payment	Available Amortization Payment	Amounts in ,000s: Estimated Payroll	Unfunded Liability Contribution	Unfunded Liability Mid-Year	Interest on Unfunded Liability	Net Contribution	Unfunded Liability End of Year
1996	$ 3.01	100%	$ 3.01	$ -	$ 0.88	$ 0.88	$ 91,296,788	$ 800,894	$ 11,816,000	$ 784,276	$ 16,618	$ 11,407,244
1997	3.01	100%	3.01	-	0.88	0.88	94,948,660	832,930	11,799,382	780,811	52,118	11,356,857
1998	3.01	100%	3.01	-	0.88	0.88	98,746,606	866,247	11,747,263	774,728	91,519	11,268,380
1999	3.01	100%	3.01	-	0.88	0.88	102,696,470	900,897	11,655,745	765,745	135,152	11,137,720
2000	3.01	100%	3.01	-	0.88	0.88	106,804,329	936,933	11,520,593	753,557	183,376	10,960,439
2001	3.01	100%	3.01	-	0.88	0.88	111,076,502	974,410	11,337,217	737,832	236,578	10,731,723
2002	3.01	100%	3.01	-	0.88	0.88	115,519,562	1,013,386	11,100,639	718,212	295,174	10,446,358
2003	3.01	100%	3.01	-	0.88	0.88	120,140,345	1,053,922	10,805,465	694,310	359,612	10,098,698
2004	3.01	100%	3.01	-	0.88	0.88	124,945,958	1,096,079	10,445,853	665,704	430,375	9,682,626
2005	3.01	100%	3.01	-	0.88	0.88	129,943,797	1,139,922	10,015,478	631,940	507,982	9,191,526
2006	3.01	100%	3.01	-	0.88	0.88	135,141,549	1,185,519	9,507,496	592,525	592,994	8,618,239
2007	3.01	100%	3.01	-	0.88	0.88	140,547,211	1,232,940	8,914,501	546,927	686,012	7,955,026
2008	3.01	100%	3.01	-	0.88	0.88	146,169,099	1,282,257	8,228,489	494,572	787,685	7,193,518
2009	3.01	100%	3.01	-	0.88	0.88	152,015,863	1,333,547	7,440,804	434,837	898,711	6,324,675
2010	3.01	100%	3.01	-	0.88	0.88	158,096,498	1,386,889	6,542,093	367,051	1,019,839	5,338,729
2011	3.01	100%	3.01	-	0.88	0.88	164,420,357	1,442,365	5,522,254	290,488	1,151,877	4,225,134
2012	3.01	100%	3.01	-	0.88	0.88	170,997,172	1,500,059	4,370,378	204,367	1,295,693	2,972,502
2013	3.01	100%	3.01	-	0.88	0.88	177,837,059	1,560,062	3,074,685	107,841	1,452,221	1,568,544
2014	3.01	100%	3.01	-	0.88	0.88	184,950,541	1,622,464	1,622,464	-	1,622,464	-

The above amortization schedule is based on the following assumptions:

Projected Payroll at July 1, 1996	$91.297 billion
Projected Unfunded Liability at July 1, 1996	$11.816 billion
Discount Rate for Amortization	3% net
Interest Rate for Unfunded Liability Accumulation	7.12%
Projected Growth in Payroll	4%
Loading Factor to Reflect True Timing of Receipt of Payments *	1.25%

* Note that the actual unfunded liability charge in the target assessment rate is $0.89 which is $0.88 increased by 1.25% to reflect the time lag in actual collection of assessments vs. payment of benefits.

Schedule 1 - Projection of Annual Financial Position - Basic Scenario

	1994	1995	1996	1997	1998	1999
Assessment Revenue						
Gross	2,514.2	2,568.5	2,639.1	2,718.3	2,813.7	2,926.7
Shortfall	418.2	385.3	263.9	135.9	140.7	146.3
Net	2,096.0	2,183.2	2,375.2	2,582.4	2,673.0	2,780.4
Expenditures						
Benefit Payments						
Temporary Compensation	340.6	343.8	354.5	371.4	390.9	410.1
Health Care	191.3	216.8	243.2	255.6	268.9	282.7
Rehabilitation	416.1	399.7	386.5	363.3	367.1	381.3
Worker Pension	606.2	582.3	566.1	575.8	583.8	590.4
$200 Supplement	0.0	112.4	115.3	118.2	121.0	123.7
OAS Supplement	151.0	137.2	134.3	131.7	128.6	125.2
Dependency	86.2	87.0	90.9	94.6	98.2	101.8
Medical Reports	21.7	24.1	25.3	26.7	28.7	30.3
Non Economic Loss	134.9	121.8	123.5	127.7	133.6	141.9
Future Economic Loss	161.6	197.5	203.1	232.4	262.0	298.4
Retirement Income	29.8	32.6	32.1	33.2	36.1	40.4
Re-employment	0.2	0.6	0.6	0.6	0.6	0.6
Third Party Recoveries	(3.9)	(3.6)	(3.6)	(3.7)	(3.9)	(4.0)
Total Benefit Payments	2,135.7	2,252.2	2,271.8	2,327.6	2,415.8	2,522.9
Administrative, Legislated Obligations & Other Expenses	404.0	404.0	404.0	404.0	412.1	428.6
Total	2,539.7	2,656.2	2,675.8	2,731.6	2,827.9	2,951.5
Operating Surplus (Deficit)	**(443.7)**	**(473.0)**	**(300.5)**	**(149.2)**	**(154.9)**	**(171.1)**
Investment Revenue	498.0	476.7	477.2	490.5	515.8	542.6
Net Cash Flow	**54.3**	**3.7**	**176.6**	**341.3**	**360.9**	**371.5**
Net Decrease (Increase) in Benefits Liability	75.0	(202.5)	(351.6)	(519.6)	(574.6)	(581.0)
Surplus (Deficiency) from Operations	**129.3**	**(198.9)**	**(175.0)**	**(178.3)**	**(213.7)**	**(209.5)**
Unfunded Liability (beginning of year)	(11,531.9)	(11,402.6)	(11,601.5)	(11,776.5)	(11,954.8)	(12,168.5)
Unfunded Liability (end of year)	**(11,402.6)**	**(11,601.5)**	**(11,776.5)**	**(11,954.8)**	**(12,168.5)**	**(12,377.9)**
Revenue	2,594.0	2,659.9	2,852.4	3,072.9	3,188.8	3,323.0
Expenses	2,464.7	2,858.8	3,027.4	3,251.2	3,402.5	3,532.4
Assets	6,809.4	6,816.8	7,007.1	7,368.6	7,751.9	8,146.1
Liabilities	18,212.0	18,418.2	18,783.5	19,323.4	19,920.4	20,524.0
Funding Ratio	37.39%	37.01%	37.30%	38.13%	38.91%	39.69%

Schedule 1 - Projection of Annual Financial Position - Basic Scenario

	1994
Workforce	3,045,137
Wage	27,430

Annual Assumptions:

	1995	1996	1997	1998	Long Term
CPI - Basic	2.50%	2.75%	3.00%	3.50%	4.00%
- Friedland	0.88%	1.06%	1.25%	1.63%	2.00%
Employment	0.00%	0.00%	0.00%	0.25%	0.50%
Nominal Wage	2.50%	2.75%	3.00%	3.25%	3.50%
Rate of Return	7.00%	7.00%	7.00%	7.00%	7.00%
Health Care	3.50%	3.75%	4.00%	4.50%	5.00%
Administrative, Legislated Obligations & Other Expenses	0.00%	0.00%	0.00%	2.00%	4.00%
Injury Frequency	3.65%	3.70%	3.75%	3.85%	3.85%
Assessment Rate	3.00	3.00	3.00	3.00	3.00
Assessment Revenue: Net vs. Gross	85.00%	90.00%	95.00%	95.00%	95.00%

Option(s):

Schedule 1 - Projection of Annual Financial Position - Basic Scenario

	2000	2001	2002	2003	2004	2005
Assessment Revenue						
Gross	3,044.3	3,166.6	3,293.8	3,426.1	3,563.8	3,706.9
Shortfall	152.2	158.3	164.7	171.3	178.2	185.3
Net	2,892.1	3,008.3	3,129.1	3,254.8	3,385.6	3,521.6
Expenditures						
Benefit Payments						
Temporary Compensation	427.0	443.8	461.8	479.7	499.0	519.3
Health Care	298.1	313.8	330.1	344.5	362.1	379.4
Rehabilitation	403.8	427.5	451.9	477.3	504.8	534.9
Worker Pension	595.6	599.7	602.8	604.8	605.7	605.6
$200 Supplement	126.3	128.6	130.8	132.8	134.5	136.0
OAS Supplement	121.8	118.1	114.2	110.3	106.2	102.1
Dependency	105.4	109.1	112.9	116.9	121.0	125.3
Medical Reports	32.0	33.8	35.6	37.6	39.7	41.9
Non Economic Loss	149.4	156.6	164.0	171.9	180.0	188.6
Future Economic Loss	331.5	362.3	397.7	435.9	476.4	514.5
Retirement Income	45.2	49.9	55.0	60.4	66.1	71.6
Re-employment	0.6	0.7	0.7	0.7	0.7	0.7
Third Party Recoveries	(4.2)	(4.4)	(4.6)	(4.7)	(4.9)	(5.1)
Total Benefit Payments	2,632.5	2,739.5	2,853.0	2,967.9	3,091.3	3,214.7
Administrative, Legislated Obligations & Other Expenses	445.7	463.5	482.1	501.4	521.4	542.3
Total	3,078.3	3,203.1	3,335.1	3,469.2	3,612.7	3,756.9
Operating Surplus (Deficit)	(186.2)	(194.8)	(206.0)	(214.4)	(227.1)	(235.3)
Investment Revenue	570.2	598.7	628.6	659.9	692.8	727.2
Net Cash Flow	384.0	403.9	422.7	445.5	465.7	491.8
Net Decrease (Increase) in Benefits Liability	(588.6)	(603.4)	(616.1)	(632.3)	(644.8)	(662.5)
Surplus (Deficiency) from Operations	(204.6)	(199.5)	(193.5)	(186.8)	(179.0)	(170.7)
Unfunded Liability (beginning of year)	(12,377.9)	(12,582.5)	(12,782.0)	(12,975.5)	(13,162.3)	(13,341.3)
Unfunded Liability (end of year)	(12,582.5)	(12,782.0)	(12,975.5)	(13,162.3)	(13,341.3)	(13,512.0)
Revenue	3,462.3	3,607.0	3,757.7	3,914.7	4,078.4	4,248.8
Expenses	3,666.9	3,806.4	3,951.2	4,101.5	4,257.4	4,419.4
Assets	8,553.0	8,980.4	9,427.1	9,897.2	10,388.1	10,905.7
Liabilities	21,135.5	21,762.4	22,402.5	23,059.5	23,729.4	24,417.7
Funding Ratio	40.47%	41.27%	42.08%	42.92%	43.78%	44.66%

Schedule 1 - Projection of Annual Financial Position - Basic Scenario

	2006	2007	2008	2009	2010	2011
Assessment Revenue						
Gross	3,855.9	4,010.8	4,171.9	4,339.5	4,513.9	4,695.2
Shortfall	192.8	200.5	208.6	217.0	225.7	234.8
Net	3,663.1	3,810.2	3,963.3	4,122.5	4,288.2	4,460.4
Expenditures						
Benefit Payments						
Temporary Compensation	540.1	561.5	584.2	608.2	632.4	658.2
Health Care	398.1	419.7	440.6	463.2	485.0	510.9
Rehabilitation	566.6	600.0	635.3	672.4	711.0	751.9
Worker Pension	604.4	602.2	598.8	594.4	588.9	582.3
$200 Supplement	137.1	137.9	138.3	138.4	138.1	137.3
OAS Supplement	98.4	94.8	91.2	87.8	84.4	81.1
Dependency	129.5	133.9	138.5	143.4	148.4	153.5
Medical Reports	44.2	46.6	49.2	51.9	54.8	57.8
Non Economic Loss	197.6	206.9	216.7	227.0	237.7	248.9
Future Economic Loss	552.9	594.6	638.6	685.0	730.8	777.4
Retirement Income	77.2	83.3	89.7	96.5	103.2	110.1
Re-employment	0.7	0.7	0.7	0.7	0.7	0.7
Third Party Recoveries	(5.3)	(5.6)	(5.8)	(6.0)	(6.2)	(6.5)
Total Benefit Payments	3,341.3	3,476.5	3,616.2	3,762.8	3,908.9	4,063.6
Administrative, Legislated Obligations & Other Expenses	564.0	586.5	610.0	634.4	659.8	686.1
Total	3,905.3	4,063.0	4,226.2	4,397.2	4,568.6	4,749.7
Operating Surplus (Deficit)	**(242.2)**	**(252.8)**	**(262.9)**	**(274.7)**	**(280.5)**	**(289.3)**
Investment Revenue	763.4	801.7	842.1	884.6	929.3	976.8
Net Cash Flow	**521.2**	**549.0**	**579.2**	**609.9**	**648.8**	**687.5**
Net Decrease (Increase) in Benefits Liability	(682.7)	(700.0)	(718.7)	(736.7)	(762.1)	(785.8)
Surplus (Deficiency) from Operations	**(161.5)**	**(151.0)**	**(139.5)**	**(126.8)**	**(113.2)**	**(98.2)**
Unfunded Liability (beginning of year)	(13,512.0)	(13,673.5)	(13,824.5)	(13,964.0)	(14,090.8)	(14,204.0)
Unfunded Liability (end of year)	**(13,673.5)**	**(13,824.5)**	**(13,964.0)**	**(14,090.8)**	**(14,204.0)**	**(14,302.2)**
Revenue	4,426.5	4,612.0	4,805.4	5,007.1	5,217.5	5,437.2
Expenses	4,588.0	4,763.0	4,944.9	5,133.9	5,330.7	5,535.5
Assets	11,453.5	12,029.7	12,636.9	13,275.5	13,954.1	14,672.2
Liabilities	25,127.0	25,854.2	26,600.9	27,366.3	28,158.1	28,974.4
Funding Ratio	**45.58%**	**46.53%**	**47.51%**	**48.51%**	**49.56%**	**50.64%**

Schedule 1 - Projection of Annual Financial Position - Basic Scenario

	2012	2013	2014
Assessment Revenue	4,883.8	5,080.0	5,284.1
Gross	244.2	254.0	264.2
Shortfall	4,639.6	4,826.0	5,019.9
Net			
Expenditures			
Benefit Payments	685.5	713.3	742.3
Temporary Compensation	541.2	571.4	602.7
Health Care	794.8	839.6	886.3
Rehabilitation	574.7	566.0	556.3
Worker Pension	136.2	134.6	132.7
$200 Supplement	70.4	60.8	52.6
OAS Supplement	158.9	164.4	170.0
Dependency	61.0	64.4	67.9
Medical Reports	260.6	272.9	285.7
Non Economic Loss	827.1	879.6	934.7
Future Economic Loss	117.5	125.2	133.3
Retirement Income	0.7	0.7	0.7
Re-employment	(6.7)	(7.0)	(7.3)
Third Party Recoveries	4,221.8	4,386.0	4,558.0
Total Benefit Payments	713.6	742.1	771.8
Administrative, Legislated Obligations & Other Expenses	4,935.4	5,128.2	5,329.9
Total			
Operating Surplus (Deficit)	(295.8)	(302.1)	(309.9)
Investment Revenue	1,027.1	1,080.5	1,137.2
Net Cash Flow	731.3	778.4	827.3
Net Decrease (Increase) in Benefits Liability	(813.4)	(842.9)	(872.7)
Surplus (Deficiency) from Operations	(82.1)	(64.5)	(45.4)
Unfunded Liability (beginning of year)	(14,302.2)	(14,384.3)	(14,448.9)
Unfunded Liability (end of year)	(14,384.3)	(14,448.9)	(14,494.3)
Revenue	5,666.7	5,906.5	6,157.2
Expenses	5,748.8	5,971.0	6,202.6
Assets	15,435.2	16,246.4	17,107.7
Liabilities	29,819.5	30,695.2	31,602.0
Funding Ratio	51.76%	52.93%	54.13%

Schedule of Alternative Gross Assessment Rates

	Base Scenario		Increasing Scedule of Rates		Level Rate	
Year	Rate	Unfunded Liability at Year-End	Rate	Unfunded Liability at Year-End	Rate	Unfunded Liability at Year-End
1996	$ 3.00	$ 11.8 billion	$ 3.09	$ 11.7 billion	$ 3.33	$ 11.3 billion
1997	3.00	12.0 billion	3.16	11.7 billion	3.33	11.1 billion
1998	3.00	12.2 billion	3.20	11.8 billion	3.33	11.0 billion
1999	3.00	12.4 billion	3.22	11.7 billion	3.33	10.8 billion
2000	3.00	12.6 billion	3.24	11.7 billion	3.33	10.6 billion
2001	3.00	12.8 billion	3.26	11.5 billion	3.33	10.3 billion
2002	3.00	13.0 billion	3.28	11.4 billion	3.33	10.0 billion
2003	3.00	13.2 billion	3.30	11.1 billion	3.33	9.6 billion
2004	3.00	13.3 billion	3.32	10.8 billion	3.33	9.2 billion
2005	3.00	13.5 billion	3.35	10.4 billion	3.33	8.6 billion
2006	3.00	13.7 billion	3.38	9.8 billion	3.33	8.1 billion
2007	3.00	13.8 billion	3.41	9.2 billion	3.33	7.4 billion
2008	3.00	14.0 billion	3.44	8.4 billion	3.33	6.7 billion
2009	3.00	14.1 billion	3.48	7.5 billion	3.33	5.8 billion
2010	3.00	14.2 billion	3.52	6.4 billion	3.33	4.9 billion
2011	3.00	14.3 billion	3.56	5.1 billion	3.33	3.8 billion
2012	3.00	14.4 billion	3.60	3.7 billion	3.33	2.7 billion
2013	3.00	14.4 billion	3.64	1.9 billion	3.33	1.4 billion
2014	3.00	14.5 billion	3.68	0.0 billion	3.33	0.0 billion

April 23, 1996

Addendum
to the

Report to The Workers' Compensation Secretariat
on the
Financial Position and Funding Strategy
of the
Workers' Compensation Board of Ontario (January 26, 1996)

At the request of the Ministry of Labour - Workers' Compensation Secretariat, we considered the impact on the Financial Projection Model created by the actual 1995 financial results of The Workers' Compensation Board.

The issue is relevant since the Financial Projection Model envisioned a slight deterioration in the financial position from 1994 to 1995 whereas the actual 1995 year end results revealed an improved financial position over the previous year.

The Financial Projection Model uses a set of long term economic and actuarial assumptions for various critical parameters to drive a year by year projection of financial results. It is to be expected that actual financial results will not track precisely the results predicted by the model every year. In any given year the actual value for many of the parameters can be different than expected. In 1995, for instance, investment return was higher than expected, and lost time injuries were lower than expected. In addition the actual system can experience one time adjustments to results for unforeseen events.

Following some discussion the WCB and ourselves agreed that the results of 1995 did not suggest to us that the long term economic and actuarial assumptions should be revised. However it was agreed that it could be helpful to the public policy process simply to start the model one year later after inputting the actual 1995 results. Thus the basic model or scenario has been rerun, starting with an unfunded liability of $10.9 billion as at December 31, 1995 which is equivalent to that in the WCB's 1995 financial statements.

The basic scenario was run assuming the $3.00 gross assessment rate was charged throughout. In addition, the model was also run, for comparative purposes, assuming a $2.85 gross assessment rate was charged. The projected unfunded liability in 2014 becomes $12.6 billion using a $3.00 gross assessment rate or alternatively $18.4 billion using a $2.85 gross assessment rate.

The two illustrations of these scenarios from the Financial Projection Model as produced by the WCB are attached.

J. Edward Nixon
Principal

WILLIAM M. MERCER LIMITED

Schedule 1 - Projection of Annual Financial Position - Basic Scenario

Inputs:

	1995
Workforce	3,045,137
Wage	28,116

Annual Assumptions:

	1996	1997	1998	1999	Long Term
CPI - Basic	2.75%	3.00%	3.50%	4.00%	4.00%
- Friedland	1.06%	1.25%	1.63%	2.00%	2.00%
Employment	0.00%	0.00%	0.25%	0.50%	0.50%
Nominal Wage	2.75%	3.00%	3.25%	3.50%	3.50%
Rate of Return	7.00%	7.00%	7.00%	7.00%	7.00%
Health Care	3.75%	4.00%	4.50%	5.00%	5.00%
Administrative, Legislated Obligations & Other Expenses	0.00%	0.00%	2.00%	4.00%	4.00%
Injury Frequency	3.70%	3.75%	3.85%	3.85%	3.85%
Assessment Rate	3.00	3.00	3.00	3.00	3.00
Assessment Revenue: Net vs. Gross	90.00%	95.00%	95.00%	95.00%	95.00%

Option(s):

1. Basic scenario assuming a $3.00 assessment rate, effective January 1, 1997

Schedule 1 - Projection of Annual Financial Position - Basic Scenario

	1995	1996	1997	1998	1999	2000
Assessment Revenue						
Gross	2,568.5	2,639.1	2,718.3	2,813.7	2,926.7	3,044.3
Shortfall	181.5	263.9	135.9	140.7	146.3	152.2
Net	2,387.0	2,375.2	2,582.4	2,673.0	2,780.4	2,892.1
Expenditures						
Benefit Payments						
Temporary Compensation	314.3	334.9	353.4	370.1	387.8	403.5
Health Care	196.9	227.3	251.5	268.0	283.2	298.0
Rehabilitation	397.0	392.4	384.8	370.0	379.6	396.5
Worker Pension	594.4	574.5	558.4	568.0	575.9	582.4
$200 Supplement	104.5	109.8	112.6	115.5	118.2	120.8
OAS Supplement	148.1	143.5	135.2	132.7	129.5	126.1
Dependency	87.7	90.1	94.3	98.4	102.4	106.4
Medical Reports	21.6	24.9	27.5	29.4	31.0	32.6
Non Economic Loss	100.6	106.1	111.4	121.1	126.3	130.8
Future Economic Loss	191.5	231.1	278.1	305.4	334.3	373.2
Retirement Income	33.4	36.8	40.5	41.4	44.3	48.9
Re-employment	0.3	0.3	0.3	0.3	0.3	0.4
Third Party Recoveries	(2.3)	(2.3)	(2.4)	(2.5)	(2.6)	(2.7)
Total Benefit Payments	2,188.0	2,269.2	2,345.7	2,417.8	2,510.2	2,616.9
Administrative, Legislated Obligations & Other Expenses	416.0	416.0	416.0	424.3	441.3	458.9
Total	2,604.0	2,685.2	2,761.7	2,842.1	2,951.5	3,075.8
Operating Surplus (Deficit)	**(217.0)**	**(310.0)**	**(179.3)**	**(169.1)**	**(171.2)**	**(183.7)**
Investment Revenue	577.0	507.4	522.5	548.1	576.5	606.7
Net Cash Flow	**360.0**	**197.4**	**343.2**	**379.0**	**405.3**	**422.9**
Net Decrease (Increase) in Benefits Liability	150.0	(293.0)	(509.7)	(577.9)	(597.8)	(607.3)
Surplus (Deficiency) from Operations	**510.0**	**(95.6)**	**(166.5)**	**(198.9)**	**(192.5)**	**(184.4)**
Unfunded Liability (beginning of year)	(11,402.0)	(10,892.0)	(10,987.6)	(11,154.2)	(11,353.1)	(11,545.6)
Unfunded Liability (end of year)	**(10,892.0)**	**(10,987.6)**	**(11,154.2)**	**(11,353.1)**	**(11,545.6)**	**(11,730.0)**
Revenue	2,964.0	2,882.6	3,104.9	3,221.1	3,356.8	3,498.7
Expenses	2,454.0	2,978.3	3,271.4	3,420.0	3,549.3	3,683.2
Assets	7,249.0	7,464.6	7,830.4	8,235.1	8,666.9	9,116.8
Liabilities	18,141.0	18,452.2	18,984.6	19,588.2	20,212.4	20,846.8
Funding Ratio	**39.96%**	**40.45%**	**41.25%**	**42.04%**	**42.88%**	**43.73%**

Schedule 1 - Projection of Annual Financial Position - Basic Scenario

	2001	2002	2003	2004	2005	2006
Assessment Revenue	3,166.6	3,293.8	3,426.1	3,563.8	3,706.9	3,855.9
Gross	158.3	164.7	171.3	178.2	185.3	192.8
Shortfall	3,008.3	3,129.1	3,254.8	3,385.6	3,521.6	3,663.1
Net						
Expenditures						
Benefit Payments	419.1	435.1	452.3	469.4	487.8	507.5
Temporary Compensation	314.9	332.3	350.3	366.5	386.0	405.4
Health Care	420.9	445.9	471.6	498.5	527.4	558.6
Rehabilitation	587.6	591.7	594.7	596.6	597.6	597.4
Worker Pension	123.3	125.6	127.8	129.7	131.4	132.8
$200 Supplement	122.6	118.9	115.0	111.1	107.0	102.9
OAS Supplement	110.3	114.4	118.6	123.0	127.5	132.2
Dependency	34.5	36.4	38.4	40.1	42.3	44.4
Medical Reports	134.5	138.3	142.3	146.4	150.5	154.8
Non Economic Loss	405.9	436.2	474.2	515.2	558.8	598.6
Future Economic Loss	53.8	58.5	64.0	69.8	76.0	81.8
Retirement Income	0.4	0.4	0.4	0.4	0.4	0.4
Re-employment	(2.8)	(2.9)	(3.1)	(3.2)	(3.3)	(3.4)
Third Party Recoveries	2,725.0	2,830.9	2,946.4	3,063.5	3,189.4	3,313.4
Total Benefit Payments	477.3	496.4	516.3	536.9	558.4	580.7
Administrative, Legislated Obligations & Other Expenses	3,202.3	3,327.3	3,462.7	3,600.4	3,747.8	3,894.1
Total						
Operating Surplus (Deficit)	**(194.0)**	**(198.2)**	**(207.9)**	**(214.8)**	**(226.2)**	**(231.0)**
Investment Revenue	638.2	671.2	706.3	743.2	782.3	823.3
Net Cash Flow	**444.2**	**473.0**	**498.4**	**528.4**	**556.1**	**592.3**
Net Decrease (Increase) in Benefits Liability	(619.6)	(638.3)	(652.1)	(668.7)	(681.5)	(701.2)
Surplus (Deficiency) from Operations	**(175.4)**	**(165.3)**	**(153.6)**	**(140.3)**	**(125.4)**	**(108.9)**
Unfunded Liability (beginning of year)	(11,730.0)	(11,905.4)	(12,070.7)	(12,224.3)	(12,364.6)	(12,490.0)
Unfunded Liability (end of year)	**(11,905.4)**	**(12,070.7)**	**(12,224.3)**	**(12,364.6)**	**(12,490.0)**	**(12,598.9)**
Revenue	3,646.4	3,800.3	3,961.1	4,128.8	4,303.9	4,486.4
Expenses	3,821.8	3,965.6	4,114.7	4,269.0	4,429.3	4,595.3
Assets	9,588.4	10,089.8	10,617.2	11,175.3	11,761.6	12,385.0
Liabilities	21,493.8	22,160.5	22,841.5	23,539.9	24,251.6	24,983.9
Funding Ratio	**44.61%**	**45.53%**	**46.48%**	**47.47%**	**48.50%**	**49.57%**

Schedule 1 - Projection of Annual Financial Position - Basic Scenario

	2007	2008	2009	2010	2011	2012
Assessment Revenue						
Gross	4,010.8	4,171.9	4,339.5	4,513.9	4,695.2	4,883.8
Shortfall	200.5	208.6	217.0	225.7	234.8	244.2
Net	3,810.2	3,963.3	4,122.5	4,288.2	4,460.4	4,639.6
Expenditures						
Benefit Payments						
Temporary Compensation	527.5	548.3	570.2	593.5	616.9	642.0
Health Care	426.2	450.1	473.5	498.7	523.0	551.7
Rehabilitation	591.3	625.8	662.1	700.2	739.7	781.5
Worker Pension	596.3	594.0	590.8	586.4	581.0	574.5
$200 Supplement	133.9	134.7	135.1	135.2	134.8	134.1
OAS Supplement	99.1	95.5	91.9	88.4	85.0	81.7
Dependency	136.9	141.7	146.7	152.1	157.5	163.1
Medical Reports	46.7	49.3	51.9	54.6	57.3	60.4
Non Economic Loss	159.2	163.8	168.4	173.2	178.1	183.2
Future Economic Loss	639.0	684.1	731.7	781.8	830.4	880.1
Retirement Income	87.8	94.4	101.4	108.7	115.9	123.3
Re-employment	0.5	0.5	0.5	0.5	0.5	0.6
Third Party Recoveries	(3.6)	(3.7)	(3.9)	(4.0)	(4.2)	(4.3)
Total Benefit Payments	3,440.9	3,578.5	3,720.4	3,869.3	4,016.1	4,171.7
Administrative, Legislated Obligations & Other Expenses	603.9	628.1	653.2	679.3	706.5	734.8
Total	4,044.8	4,206.6	4,373.6	4,548.7	4,722.6	4,906.5
Operating Surplus (Deficit)	**(234.6)**	**(243.2)**	**(251.1)**	**(260.5)**	**(262.1)**	**(266.8)**
Investment Revenue	867.0	913.5	962.7	1,014.8	1,070.1	1,129.1
Net Cash Flow	**632.3**	**670.2**	**711.6**	**754.3**	**807.9**	**862.3**
Net Decrease (Increase) in Benefits Liability	(723.0)	(740.6)	(759.5)	(777.5)	(803.8)	(828.5)
Surplus (Deficiency) from Operations	**(90.6)**	**(70.4)**	**(47.9)**	**(23.1)**	**4.1**	**33.8**
Unfunded Liability (beginning of year)	(12,598.9)	(12,689.5)	(12,759.9)	(12,807.9)	(12,831.0)	(12,826.8)
Unfunded Liability (end of year)	**(12,689.5)**	**(12,759.9)**	**(12,807.9)**	**(12,831.0)**	**(12,826.8)**	**(12,793.0)**
Revenue	4,677.2	4,876.8	5,085.2	5,303.0	5,530.5	5,768.8
Expenses	4,767.8	4,947.2	5,133.1	5,326.1	5,526.4	5,735.0
Assets	13,049.4	13,752.5	14,497.8	15,286.7	16,130.3	17,029.4
Liabilities	25,739.0	26,512.5	27,305.7	28,117.7	28,957.1	29,822.4
Funding Ratio	50.70%	51.87%	53.09%	54.37%	55.70%	57.10%

Schedule 1 - Projection of Annual Financial Position - Basic Scenario

	2013	2014
Assessment Revenue		
Gross	5,080.0	5,284.1
Shortfall	254.0	264.2
Net	4,826.0	5,019.9
Expenditures		
Benefit Payments		
Temporary Compensation	668.6	695.6
Health Care	584.8	618.0
Rehabilitation	825.3	870.9
Worker Pension	566.9	558.4
$200 Supplement	133.0	131.5
OAS Supplement	70.9	61.2
Dependency	168.9	174.8
Medical Reports	64.1	67.7
Non Economic Loss	188.4	193.7
Future Economic Loss	933.8	990.6
Retirement Income	131.3	139.7
Re-employment	0.6	0.6
Third Party Recoveries	(4.5)	(4.7)
Total Benefit Payments	4,332.0	4,498.0
Administrative, Legislated Obligations & Other Expenses	764.2	794.7
Total	5,096.1	5,292.8
Operating Surplus (Deficit)	**(270.1)**	**(272.8)**
Investment Revenue	1,192.1	1,259.3
Net Cash Flow	**922.0**	**986.4**
Net Decrease (Increase) in Benefits Liability	(856.0)	(885.2)
Surplus (Deficiency) from Operations	**65.9**	**101.2**
Unfunded Liability (beginning of year)	(12,793.0)	(12,727.1)
Unfunded Liability (end of year)	**(12,727.1)**	**(12,625.9)**
Revenue	6,018.1	6,279.2
Expenses	5,952.2	6,178.0
Assets	17,989.3	19,015.0
Liabilities	30,716.4	31,640.9
Funding Ratio	**58.57%**	**60.10%**

Schedule 1 - Projection of Annual Financial Position - Basic Scenario

Inputs:

	1995
Workforce	3,045,137
Wage	28,116

Annual Assumptions:

	1996	1997	1998	1999	Long Term
CPI - Basic	2.75%	3.00%	3.50%	4.00%	4.00%
- Friedland	1.06%	1.25%	1.63%	2.00%	2.00%
Employment	0.00%	0.00%	0.25%	0.50%	0.50%
Nominal Wage	2.75%	3.00%	3.25%	3.50%	3.50%
Rate of Return	7.00%	7.00%	7.00%	7.00%	7.00%
Health Care	3.75%	4.00%	4.50%	5.00%	5.00%
Administrative, Legislated Obligations & Other Expenses	0.00%	0.00%	2.00%	4.00%	4.00%
Injury Frequency	3.70%	3.75%	3.85%	3.85%	3.85%
Assessment Rate	3.00	2.85	2.85	2.85	2.85
Assessment Revenue: Net vs. Gross	90.00%	95.00%	95.00%	95.00%	95.00%

Option(s):

1. Basic scenario assuming a $2.85 assessment rate, effective January 1, 1997

Schedule 1 - Projection of Annual Financial Position - Basic Scenario

	1995	1996	1997	1998	1999	2000
Assessment Revenue						
Gross	2,568.5	2,639.1	2,582.4	2,673.0	2,780.4	2,892.1
Shortfall	181.5	263.9	129.1	133.6	139.0	144.6
Net	2,387.0	2,375.2	2,453.3	2,539.3	2,641.3	2,747.5
Expenditures						
Benefit Payments						
Temporary Compensation	314.3	334.9	353.4	370.1	387.8	403.5
Health Care	196.9	227.3	251.5	268.0	283.2	298.0
Rehabilitation	397.0	392.4	384.8	370.0	379.6	396.5
Worker Pension	594.4	574.5	558.4	568.0	575.9	582.4
$200 Supplement	104.5	109.8	112.6	115.5	118.2	120.8
OAS Supplement	148.1	143.5	135.2	132.7	129.5	126.1
Dependency	87.7	90.1	94.3	98.4	102.4	106.4
Medical Reports	21.6	24.9	27.5	29.4	31.0	32.6
Non Economic Loss	100.6	106.1	111.4	121.1	126.3	130.8
Future Economic Loss	191.5	231.1	278.1	305.4	334.3	373.2
Retirement Income	33.4	36.8	40.5	41.4	44.3	48.9
Re-employment	0.3	0.3	0.3	0.3	0.3	0.4
Third Party Recoveries	(2.3)	(2.3)	(2.4)	(2.5)	(2.6)	(2.7)
Total Benefit Payments	2,188.0	2,269.2	2,345.7	2,417.8	2,510.2	2,616.9
Administrative, Legislated Obligations & Other Expenses	416.0	416.0	416.0	424.3	441.3	458.9
Total	2,604.0	2,685.2	2,761.7	2,842.1	2,951.5	3,075.8
Operating Surplus (Deficit)	**(217.0)**	**(310.0)**	**(308.4)**	**(302.8)**	**(310.2)**	**(328.3)**
Investment Revenue	577.0	507.4	522.5	539.1	557.4	576.6
Net Cash Flow	**360.0**	**197.4**	**214.1**	**236.3**	**247.3**	**248.2**
Net Decrease (Increase) in Benefits Liability	150.0	(293.0)	(509.7)	(577.9)	(597.8)	(607.3)
Surplus (Deficiency) from Operations	**510.0**	(95.6)	(295.6)	**(341.6)**	**(350.5)**	(359.1)
Unfunded Liability (beginning of year)	(11,402.0)	(10,892.0)	(10,987.6)	(11,283.3)	(11,624.9)	(11,975.4)
Unfunded Liability (end of year)	**(10,892.0)**	**(10,987.6)**	**(11,283.3)**	**(11,624.9)**	**(11,975.4)**	**(12,334.5)**
Revenue	2,964.0	2,882.6	2,975.8	3,078.4	3,198.8	3,324.1
Expenses	2,454.0	2,978.3	3,271.4	3,420.0	3,549.3	3,683.2
Assets	7,249.0	7,464.6	7,701.3	7,963.2	8,237.0	8,512.2
Liabilities	18,141.0	18,452.2	18,984.6	19,588.2	20,212.4	20,846.8
Funding Ratio	**39.96%**	**40.45%**	**40.57%**	**40.65%**	**40.75%**	**40.83%**

Schedule 1 - Projection of Annual Financial Position - Basic Scenario

	2001	2002	2003	2004	2005	2006
Assessment Revenue	3,008.3	3,129.1	3,254.8	3,385.6	3,521.6	3,663.1
Gross	150.4	156.5	162.7	169.3	176.1	183.2
Shortfall	2,857.8	2,972.7	3,092.1	3,216.3	3,345.5	3,479.9
Net						
Expenditures						
Benefit Payments						
Temporary Compensation	419.1	435.1	452.3	469.4	487.8	507.5
Health Care	314.9	332.3	350.3	366.5	386.0	405.4
Rehabilitation	420.9	445.9	471.6	498.5	527.4	558.6
Worker Pension	587.6	591.7	594.7	596.6	597.6	597.4
$200 Supplement	123.3	125.6	127.8	129.7	131.4	132.8
OAS Supplement	122.6	118.9	115.0	111.1	107.0	102.9
Dependency	110.3	114.4	118.6	123.0	127.5	132.2
Medical Reports	34.5	36.4	38.4	40.1	42.3	44.4
Non Economic Loss	134.5	138.3	142.3	146.4	150.5	154.8
Future Economic Loss	405.9	436.2	474.2	515.2	558.8	598.6
Retirement Income	53.8	58.5	64.0	69.8	76.0	81.8
Re-employment	0.4	0.4	0.4	0.4	0.4	0.4
Third Party Recoveries	(2.8)	(2.9)	(3.1)	(3.2)	(3.3)	(3.4)
Total Benefit Payments	2,725.0	2,830.9	2,946.4	3,063.5	3,189.4	3,313.4
Administrative, Legislated Obligations & Other Expenses	477.3	496.4	516.3	536.9	558.4	580.7
Total	3,202.3	3,327.3	3,462.7	3,600.4	3,747.8	3,894.1
Operating Surplus (Deficit)	**(344.4)**	**(354.6)**	**(370.6)**	**(384.1)**	**(402.3)**	**(414.2)**
Investment Revenue	595.9	615.4	635.6	656.2	677.3	698.7
Net Cash Flow	**251.4**	**260.8**	**265.0**	**272.1**	**275.1**	**284.5**
Net Decrease (Increase) in Benefits Liability	(619.6)	(638.3)	(652.1)	(668.7)	(681.5)	(701.2)
Surplus (Deficiency) from Operations	**(368.1)**	**(377.6)**	**(387.0)**	**(396.5)**	**(406.4)**	**(416.7)**
Unfunded Liability (beginning of year)	(12,334.5)	(12,702.7)	(13,080.2)	(13,467.3)	(13,863.8)	(14,270.2)
Unfunded Liability (end of year)	**(12,702.7)**	**(13,080.2)**	**(13,467.3)**	**(13,863.8)**	**(14,270.2)**	**(14,686.9)**
Revenue	3,453.7	3,588.0	3,727.7	3,872.5	4,022.8	4,178.6
Expenses	3,821.8	3,965.6	4,114.7	4,269.0	4,429.3	4,595.3
Assets	8,791.2	9,080.3	9,374.2	9,676.1	9,981.4	10,297.0
Liabilities	21,493.8	22,160.5	22,841.5	23,539.9	24,251.6	24,983.9
Funding Ratio	40.90%	40.97%	41.04%	41.10%	41.16%	41.21%

Schedule 1 - Projection of Annual Financial Position - Basic Scenario

	2007	2008	2009	2010	2011	2012
Assessment Revenue						
Gross	3,810.2	3,963.3	4,122.5	4,288.2	4,460.4	4,639.6
Shortfall	190.5	198.2	206.1	214.4	223.0	232.0
Net	3,619.7	3,765.2	3,916.4	4,073.8	4,237.4	4,407.7
Expenditures						
Benefit Payments						
Temporary Compensation	527.5	548.3	570.2	593.5	616.9	642.0
Health Care	426.2	450.1	473.5	498.7	523.0	551.7
Rehabilitation	591.3	625.8	662.1	700.2	739.7	781.5
Worker Pension	596.3	594.0	590.8	586.4	581.0	574.5
$200 Supplement	133.9	134.7	135.1	135.2	134.8	134.1
OAS Supplement	99.1	95.5	91.9	88.4	85.0	81.7
Dependency	136.9	141.7	146.7	152.1	157.5	163.1
Medical Reports	46.7	49.3	51.9	54.6	57.3	60.4
Non Economic Loss	159.2	163.8	168.4	173.2	178.1	183.2
Future Economic Loss	639.0	684.1	731.7	781.8	830.4	880.1
Retirement Income	87.8	94.4	101.4	108.7	115.9	123.3
Re-employment	0.5	0.5	0.5	0.5	0.5	0.6
Third Party Recoveries	(3.6)	(3.7)	(3.9)	(4.0)	(4.2)	(4.3)
Total Benefit Payments	3,440.9	3,578.5	3,720.4	3,869.3	4,016.1	4,171.7
Administrative, Legislated Obligations & Other Expenses	603.9	628.1	653.2	679.3	706.5	734.8
Total	4,044.8	4,206.6	4,373.6	4,548.7	4,722.6	4,906.5
Operating Surplus (Deficit)	**(425.1)**	**(441.4)**	**(457.2)**	**(474.9)**	**(485.2)**	**(498.8)**
Investment Revenue	720.8	743.7	767.2	791.3	815.8	841.5
Net Cash Flow	**295.7**	**302.3**	**310.0**	**316.3**	**330.6**	**342.6**
Net Decrease (Increase) in Benefits Liability	(723.0)	(740.6)	(759.5)	(777.5)	(803.8)	(828.5)
Surplus (Deficiency) from Operations	**(427.3)**	**(438.3)**	**(449.5)**	**(461.1)**	**(473.1)**	**(485.8)**
Unfunded Liability (beginning of year)	(14,686.9)	(15,114.2)	(15,552.5)	(16,002.1)	(16,463.2)	(16,936.3)
Unfunded Liability (end of year)	**(15,114.2)**	**(15,552.5)**	**(16,002.1)**	**(16,463.2)**	**(16,936.3)**	**(17,422.2)**
Revenue	4,340.5	4,508.9	4,683.6	4,865.0	5,053.2	5,249.1
Expenses	4,767.8	4,947.2	5,133.1	5,326.1	5,526.4	5,735.0
Assets	10,624.7	10,959.9	11,303.6	11,654.5	12,020.8	12,400.2
Liabilities	25,739.0	26,512.5	27,305.7	28,117.7	28,957.1	29,822.4
Funding Ratio	**41.28%**	**41.34%**	**41.40%**	**41.45%**	**41.51%**	**41.58%**

Schedule 1 - Projection of Annual Financial Position - Basic Scenario

	2013	2014
Assessment Revenue		
Gross	4,826.0	5,019.9
Shortfall	241.3	251.0
Net	4,584.7	4,768.9
Expenditures		
Benefit Payments		
Temporary Compensation	668.6	695.6
Health Care	584.8	618.0
Rehabilitation	825.3	870.9
Worker Pension	566.9	558.4
$200 Supplement	133.0	131.5
OAS Supplement	70.9	61.2
Dependency	168.9	174.8
Medical Reports	64.1	67.7
Non Economic Loss	188.4	193.7
Future Economic Loss	933.8	990.6
Retirement Income	131.3	139.7
Re-employment	0.6	0.6
Third Party Recoveries	(4.5)	(4.7)
Total Benefit Payments	4,332.0	4,498.0
Administrative, Legislated Obligations & Other Expenses	764.2	794.7
Total	5,096.1	5,292.8
Operating Surplus (Deficit)	**(511.4)**	**(523.8)**
Investment Revenue	868.0	895.6
Net Cash Flow	**356.6**	**371.8**
Net Decrease (Increase) in Benefits Liability	(856.0)	(885.2)
Surplus (Deficiency) from Operations	**(499.4)**	**(513.4)**
Unfunded Liability (beginning of year)	(17,422.2)	(17,921.6)
Unfunded Liability (end of year)	**(17,921.6)**	**(18,435.0)**
Revenue	5,452.8	5,664.6
Expenses	5,952.2	6,178.0
Assets	12,794.8	13,205.9
Liabilities	30,716.4	31,640.9
Funding Ratio	**41.65%**	**41.74%**

- Permitting workers over 55 years of age to choose to have their loss of earnings compensation determined on the basis of a single assessment rather than having to go through the FEL review process. This will eliminate unnecessary steps for older workers who do not have a reasonable prospect of re-employment.

- Streamlining the process of determining a worker's NEL award to ensure that permanent impairments are processed in a more timely and effective fashion.

2. *The Workers' Compensation Appeals Tribunal*

The assessment of the appropriate role of an external appeals tribunal within a mass adjudication system should be undertaken in light of the objectives listed at the outset of this section. A tribunal that meets all of these objectives can make a strong contribution to the integrity of the system and boost system effectiveness. Three measures should be adopted in order to ensure that all of the objectives are met:

- Clarify the respective roles of the WCB and WCAT, to ensure that the WCB, as the administrator of the system, sets the policy parameters within which WCAT is required to decide. As a result, WCAT would be required to adhere to WCB policy in adjudicating appeals, whatever its views on the policy in question.

- Reduce the number of cases appealable to WCAT by precluding appeals on issues involving minor matters, by imposing a 60 day time limit within which to file an appeal and by requiring parties to seek WCAT's leave to appeal a WCB decision (which must be decided expeditiously).

- Streamline WCAT to reduce its cost and improve its efficiency by: imposing a statutory preference for hearing panels composed of a single adjudicator rather than the current requirement for tripartite panels; giving WCAT the legal authority to adopt measures that will streamline the hearing process and resolve appeals by alternatives to hearings; and requiring WCAT to hold hearings and issue decisions within a limited time frame, such as 120 days.

3. The Occupational Disease Panel

The ODP has contributed to the complex debate over occupational disease in Ontario and has provided the basis for compensating additional diseases during the past ten years. However, a review of its overall impact suggests that maintaining a disease research and recommendation body at arm's length from the WCB is not the optimal means to assure effective adjudication of occupational disease. In addition, it is fair to observe that there has been a confusion of roles and a degree of duplication of work between the ODP and the WCB.

There can be no doubt that there is a major role for extensive and scientifically credible research into occupational disease in Ontario to ensure that the adjudication of occupational disease claims proceeds on a sound footing and that workers with legitimate claims are compensated.

For these reasons, it is recommended that the ODP and its research functions and expertise be integrated into the WCB. The WCB could also draw on a range of other research resources, including Ontario's university research programs and its network of teaching hospitals. The WCB would then be charged with the responsibility for ensuring the scientific integrity of the grounds upon which it accepts or rejects disease claims. It is to be noted that this measure is consistent with the government's objectives in integrating health and safety administration into the WCB.

4. Institutional Advocacy: Office of the Worker Adviser, Office of the Employer Adviser

There is little doubt that workers not represented by unions and small employers need the assistance of bodies like the OWA and the OEA to navigate the complexities of the workers' compensation system. At the same time, these institutional advocates, which have grown in size and influence in recent years, have contributed to the rise of advocacy and the emergence of an adversarial climate, at the expense of the system that funds them. The changes needed to address this concern must be sensitive to the needs of unrepresented workers and of small business.

A balanced approach to reform in this area is based on a recognition that the OWA must continue to represent non-unionized workers who would, in the absence of the OWA, have no resources to fall back on in pursuing their claims or in resolving their problems. However, it should be clear that the continued OWA would have to be downsized and focused on advisory, educational, dispute resolution and representation services.

Employers, in contrast to non-unionized workers, have a wide array of organizations to turn to for advice and representation in workers' compensation matters. Businesses can, for example, draw on the resources of the Chamber of Commerce, the CFIB, trade organizations and other groups that have a specific workers' compensation focus. For this reason, the case for maintaining the OEA is less compelling and it could be eliminated.

To ensure that small employers have access to advice and guidance on return to work and other workers' compensation matters, the WCB should establish a small business advisory service dedicated to meeting the needs and smoothing the path for smaller employers.

Recommendations

Adopt a general six month time limitation within which a worker or an employer can object to a WCB decision, except as provided elsewhere in the Act; and require an objector to state grounds for the objection and enable the WCB to decide the objection on the basis of that information without the need for a hearing.

Maintain a streamlined Workers' Compensation Appeals Tribunal with limited authority and subject to WCB policy.

Eliminate the Occupational Disease Panel and integrate its functions into the WCB.

Maintain the Office of the Worker Adviser but downsized and limited to providing advisory and representation services to non-unionized injured workers.

Eliminate the Office of the Employer Adviser, and provide small business advisory services directly through the WCB.

Streamline the dual award system to improve the process for older workers and to reduce complexity of the non-economic loss determination process.

The cost of workers' compensation to the economy has been increasing, and an important share of that cost is being passed on to future employers through increases in unfunded liabilities... It would be appropriate to ensure that the increase in liabilities that results from retroactive increases in benefits be taken into account when these benefits are considered.

FRANÇOIS VAILLANCOURT, PROFESSOR OF ECONOMICS, UNIVERSITÉ DE MONTRÉAL *FINANCING WORKERS' COMPENSATION BOARDS IN CANADA, (1994)*

IV. The Financial Viability of the Workers' Compensation System

This section of the Report considers the adjustments to the benefit and the revenue sides of the WCB system needed to ensure that full funding of the workers' compensation system is achieved by the year 2014. The *Common Sense Revolution* called for full funding of the accident fund in order to guarantee strong investment and job growth in the provincial economy, and to improve the competitive position of Ontario employers.

Principles

The system should maintain a fair and affordable level of compensation for all benefit recipients today and in the future; and,

All employers benefiting from a collective liability scheme should pay their fair share of its costs.

Problem

As stated at the outset of this Report, benefit enhancements over the past decade have resulted in an unfunded liability whose size threatens the future viability of the workers' compensation system. In addition, because of a flaw in the WCB's funding strategy, the unfunded liability will not be eliminated by 2014 without unacceptable increases in assessment rates.

To assist Minister Jackson's analysis of this problem, the services of an external actuary were engaged in the fall of 1995. The actuary's report in January, 1996 confirmed the causes of the significant unfunded liability: legislated benefit increases granted retroactively to existing claimants; the policies used to interpret and implement legislated benefit changes have often produced significantly greater benefit payments than were intended by the legislature; and a generally liberal approach to entitlement. (See Appendix A for the full actuarial report.)

The actuary's report also confirmed that the WCB's strategy adopted to eliminate the unfunded liability by the year 2014 would not achieve its objective. This is because the strategy assumes that the WCB will always be able to collect 100 per cent of the assessments it levies on employers. The reality is, however, the WCB does not do so. For example, a certain amount of assessments payable in any year will inevitably have to be written off as bad debt.

Using appropriate financial assumptions and correcting for the flaw in the funding strategy, the external actuary, working with WCB staff, developed a financial projection model to assess the financial impact of various reforms. The actuary concluded that there would remain an unfunded liability of over $14 billion in 2014. In other words, if all things remained constant in the system, the average assessment rate required to retire the unfunded liability would have to be $3.33 from now until the year 2014.

In March 1996, the WCB released the 1995 year end results showing an operating surplus of $510 million and a decrease in the unfunded liability from $11.4 billion at year end 1994 to $10.9 billion at year end 1995. The year end results were unexpectedly positive because of:

- Increased assessment revenue driven mainly by employment growth in the manufacturing sector;

- Decreased benefit costs as a result of zero inflation, substantial over-reserving of one benefit stream, and an unexpected reduction in lost time injuries; and

- Consistent with general investment trends in 1995, an 18.8 per cent market rate of return on investments.

Unfortunately, the factors leading to the positive 1995 financial result are not indicative of emerging new trends that on their own would independently turn around the WCB's finances. The external actuary was asked to work with the WCB to revise the financial projection model to reflect the positive 1995 year end results. Taking these results into account, the projected unfunded liability of $14.5 billion is reduced by about $2 billion by the year 2014.

These unfunded liability projections are based on the current average assessment rate of $3.00 per $100 of assessable payroll. On the basis of its commitment to reduce barriers to investment and job creation, the government announced in its May 7 Budget Speech that it would reduce the average assessment rate by 5 per cent.

As a result, the actuary was asked to project the unfunded liability at an average assessment rate of $2.85, effective January 1, 1997. In the absence of the reforms proposed in this Report, the result would be an estimated unfunded liability of $18.4 billion by the year 2014. (Updated actuarial projections are included as an addendum to Appendix A.)

It is against this more realistic unfunded liability projection (referred to as the base scenario) that the impact of various benefit changes and other reforms are assessed. It is worth noting that the base scenario is primarily designed to assist in providing long term, comparative cost assessments of various changes, and is not meant to predict or reflect definitively actual performance of the accident fund over a series of years or any specific year.

Consultations

Employers and workers acknowledge the importance of controlling the unfunded liability, but disagree on the extent of the problem and the measures necessary to address it.

For the employer community, the unfunded liability is really a competitiveness issue since the charge needed to retire it is a large component of assessment rates. From their perspective, assessment rates are simply too high and adversely affect their competitive position. The employer community is supportive of the government's commitments to retire the unfunded liability on or before 2014 and to keep rates competitive, through an immediate 5 per cent rate reduction and further reductions in the future.

In addition to reductions in the benefit level and adjustments to the dual award system, employers propose a variety of measures to reduce the system's liabilities. Many employer associations support proposals to review and adjust

pension supplements according to a means test, end or reduce the payment of pension supplements at age 65, and apply the Friedland indexing formula to all workers. Other employers propose the elimination of indexing altogether and the repeal of the $200 supplement.

Injured worker and labour organizations disagree with the focus on the costs of the system and oppose any measures to reduce benefits. According to the Disabled Workers' Complex Case Unit Network in Thunder Bay, totally disabled workers are especially vulnerable to benefit reductions because of the additional costs they face with respect to home maintenance, transportation, communications and insurance. One Fort Erie injured worker notes, "the current majority government should take a long hard look at the workers' compensation program and its debt-load, and revise it to its original intent which was to help people who are incapable of working because of an accident."

Many injured worker and labour organizations perceive the WCB's financial challenge as a revenue problem. The OFL notes the experience rating off-balance and uncollected debts accounted for over $400 million in 1994 and states that the WCB should "implement an aggressive collection policy for bad debts and change legislation to make the Board a first payer when firms cease operations, after workers have received their wages and benefits." The OFL and other labour organizations also support the elimination of the off-balance as a means of increasing revenue, and the accelerated transition of employer assessment rates to their target rates.

Employers support experience rating as an effective incentive for preventing workplace accidents and re-employing injured workers. The Employers' Council on Workers' Compensation argues that experience rating saved the system over $450 million in workplace accident costs in 1993, and reimbursed over $250 million to employers as incentives to continue to improve their health and safety records. In its view, experience rating should be reformed to preserve the performance-based portion of the off-balance and to remove systemic problems in the formulae.

The CFIB and small employers support special merit based programs for small employers to encourage accident prevention. To ensure employers pay their fair share of costs, several major employer associations, such as the Canadian Manufacturers Association, the Motor Vehicle Manufacturers' Association and the Employers' Advocacy Council support an expeditious transition to target assessment rates. Employers whose rates are below target rate are less favourable to such a transition. Similarly, some employer groups, such as the CMA, support the adoption of measures to reduce revenue leakage in the workers' compensation system.

New Directions

1. Benefit Adjustments

The financial impact on the WCB's unfunded liability of key directions recommended so far in this Report are summarized in the table on page 52. The results are presented in terms of their impact on operations in 1997 and the unfunded liability at year end 2014. The summary reveals that the reforms reviewed to this point are insufficient, and leave an estimated unfunded liability of $12.5 billion at year end 2014.

As noted in the Discussion Paper, to achieve the goal of full funding by the year 2014, it is necessary to consider measures to contain the WCB's long term liabilities. The Discussion Paper raised a range of approaches that could be considered in capping these liabilities. The range of options included:

- Further reducing or freezing inflation protection.
- Reducing the lifetime pensions at age 65.
- Reviewing the pension supplements scheme.
- Providing pension commutation options.

In order to maintain a fair level of compensation for injured workers of today and tomorrow, it is important that reforms in this area strive to achieve the greatest cost impact on the unfunded liability and the least impact on the individual worker. This suggests that a further reduction in benefit indexation should be considered. While changes in indexing tend to reduce the value of benefits over time, they

do not require an absolute reduction in benefits. Modifying or eliminating indexing protection is being considered or implemented in a variety of income replacement schemes (for example, auto insurance and MPPs pensions) in order to achieve financial stability.

In determining the appropriate indexing changes the obvious starting point is to look to the precedent set by the previous government with the implementation of the Friedland indexing formula, effective January 1, 1995. To begin to address the unfunded liability problem, the previous government introduced a reduced indexing formula, [¾ x CPI] - 1%, with a cap of 4%, for all but certain defined benefit recipients in the system.

Building on this approach, indexing protection could be refined further in one of three ways. First, the Friedland formula could be extended to all benefit recipients. While this would be rational from an administrative point of view and consistent with other pension plans, unfortunately, this approach falls substantially short of eliminating the remaining unfunded liability. If this approach were adopted in conjunction with the recommendations in the previous sections, there would still be an unfunded liability of over $7 billion by 2014.

The second approach would be to continue to extend full CPI protection only for workers who are 100 per cent disabled and for survivors. The rest of the benefit recipients would receive indexing protection at the level of a modified Friedland formula at [½ x CPI] - 1%, with a cap of 4%. The advantage of this approach is that it achieves more significant savings to the unfunded liability, while retaining full indexing status for the most vulnerable persons. Under this approach, in conjunction with the recommendations set out earlier in this Report, the remaining unfunded liability is $3.2 billion in 2014.

A third approach would extend the current Friedland indexing protection to the benefit recipients in the system who are currently receiving full CPI and a modified Friedland formula, at [½ x CPI] - 1%, with a cap of 4% to all others. This approach retains special indexing status for the 100 per

cent disabled, surviving spouses and pensioners in receipt of the up to the $200 additional top up, but at a reduced level of indexation. Under this approach, the remaining unfunded liability is $2 billion in 2014.

These are very difficult measures, justifiable only because of the seriousness of the unfunded liability and the threat it poses for the viability of the system. While the third alternative has the greatest financial impact, the second approach is preferable because it provides full indexing protection for the most vulnerable benefit recipients while still having a significant impact on the overall liabilities of the system. While the remaining unfunded liability is estimated at slightly over $3 billion, this shortfall will be offset by the substantial savings that can be realized from the new directions set out in this Report. In particular:

- Introduction of employer direct payment, which would have a substantial impact on duration on benefits;

- Changes to return to work, primarily through the focus on early return to work and adoption of effective labour market re-entry strategies;

- Changes to compensation for loss of earnings (FEL), such as recognizing the seasonal or intermittent nature of the worker's pre-injury employment in calculating average earnings, and requiring workers to mitigate their loss of earning capacity;

- Institutional and administrative changes, such as integrating activities of the ODP and the OEA within the WCB, and refocusing and downsizing WCAT and the OWA.

The WCB will have to derive full value from the reform measures to achieve the objective of full funding of the accident fund. Corporate restructuring of the WCB and the enhanced financial management and accountability tools introduced in Bill 15, will make the attainment of this goal possible. In addition, the WCB will be required to manage its $7.2 billion in assets more effectively and significantly improve its performance on the collection of debts.

The WCB will have to ensure that an appropriate portion of the overall system savings derived from the new directions and from better management is retained for purposes of reducing and eliminating the unfunded liability on target. There is no question that the government expects assessment rates to decline further, but they should do so in a way that is consistent with the long term financial health of the system.

Financial Impact of New Directions

	1997 Operations ($ Millions)	2014 Unfunded Liability ($ Billions)
Base Scenario	**(295.6)**	**18.4**
Less Savings From:[1]		
Chronic Pain	33.9	1.4
Retirement Income Adjustment	31.4	1.4
Prospective Benefit Reduction to 85%	68.9	3.1
Revised Indexation Formulae	219.0	9.3
Remaining Unfunded Liability		**3.2**

[1] Actuarial Projections

Recommendation

Adjust inflation indexing so that benefit recipients receive indexing protection at the level of a modified Friedland formula at [½ x CPI] - 1%, with a cap of 4%, but retain full indexing to CPI for workers who are 100 per cent disabled and for survivors.

2. Revenue Side Adjustments

While benefit adjustment measures go a long way toward restoring the financial viability of the system, additional critical measures are required on the revenue side to ensure that the WCB achieves and maintains this goal. These revenue measures are consistent with the principle enunciated earlier that all employers benefiting from a collective liability